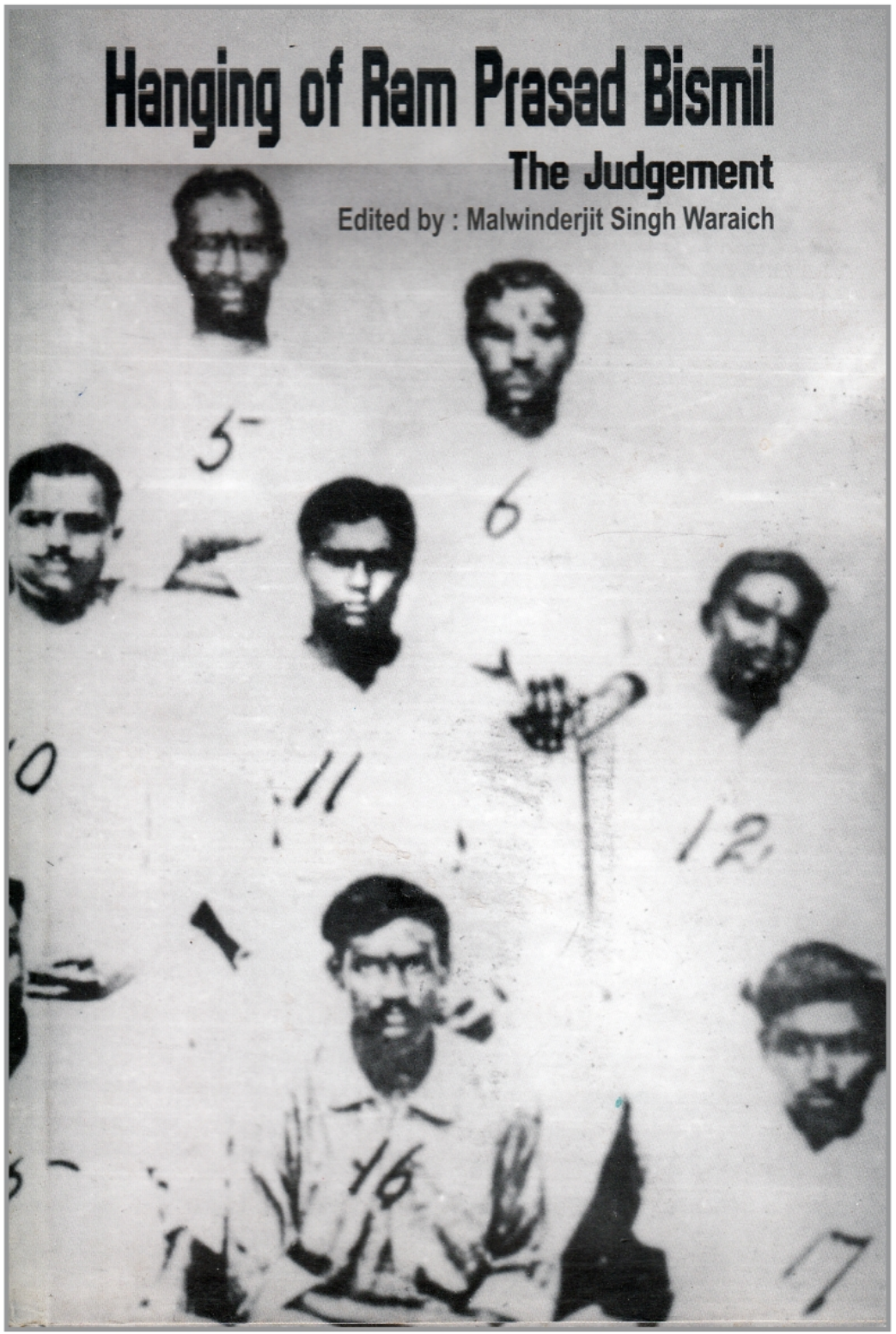


The Judgement

STUART, C. J., AND RAZA, JJ.

Ram Prasad and others – Accused – Appellants.

V.

Emperor-Opposite Party

Cr. Appeals Nos. 189, 186, 187, 231, 261, 272, 273, 288, 289, 290, 291, 292, 315, 316 and 317 of 1927. Decided on 22nd August 1927, against the order of the Special Sessions Judge, Lucknow, D/- 6th April 1927.

(a) Criminal P.C., S. 420 – Practice of not allowing appellants from jail to argue in person is in their interest.

The objection to permit convict-appellants, appealing from jail, arguing in person is founded in the main not on convenience to prosecution but on their own interests.

[P 375 C 2].

* (b) Criminal P.C., S. 235 – Joinder of charges under S. 121-A and S. 120 B, I.P.C., is not illegal where the offences are committed in one transaction.

Where several accused persons were all charged with conspiring to deprive His Majesty the King of the sovereignty of Britis India, of conspiracy to wage war against the Government by means of criminal force, and, apart from the conspiracy to effect these objects, there was disclosed on the evidence a conspiracy to commit dacoities either accompanied by murder or not accompanied by murder, and thus certain of the conspirators were liable to punishment under S.120-B for being party to a criminal conspiracy to commit offences punishable with death or transportation for life:

Held: that the joinder of charges under S.121-A and S.120-B, I.P.C., was regular and legal, as all these offences formed part of the same transaction.

[P 376 C 2]

* (c) Criminal P.C., S.556 – Committing Magistrate conducting identification proceedings and giving evidence before himself of those proceedings-Trial is not vitiated-criminal P.C., S.537.

Where the committing Magistrate, as part of his duties in connexion with the proceedings, conducted all the jail identifications in person and in order to give the defence a better opportunity of preparing their criticizms on the conduct of the investigation, took the unusual course of going into the witness-box during the committal proceedings:

Held: that thoug it certainly would appear to be open to objection for a Magistrate to decide on the value of his own evidence yet where the Magistrate had not to decide but solely to commit, there is nothing objectionable to the course adopted by him, and the action does not vitiate the committal of the trial: 27 All.33.Rel.on.

[P 377 C 2]

(d) Evidence Act, S.10-Provisions are wider than English law,-Scope is very wide.

Section 10 renders admissible in cases of conspiracy much evidence which is not otherwise ordinarily admissible under the Indian law. The provisions of the section are wider than those of English law.

[P 378 C 1]

* (e) Evidence Act, S.133 – Conviction on uncorroborated testimoney of accomplice is rarely justifiable though and illegal.

The evidence of accomplices is always admissible and is always relevant but under a very old practice of the Courts in England such evidence is accepted only with great caution and after the closest scrutiny, and is not usually accepted against any individual person unless it is corroborated. Although it is not illegal to convict on the uncorroborated evidence of an accomplice, there is a consensus of opinion that a conviction on the uncorroborated evidence of an accomplice is rarely justifiable. The practice in India is the same as the practice in England. Confirmation does not mean that there should be independent evidence of that which the accomplice relates, otherwise his testimony would be unnecessary. The evidence of an accomplice must be confirmed not only as to the circumstances of the crime, but also as to the identity of the prisoner. The corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connexion with the crime: Rexv. Baskerville (1916) 2 K. B. 658, Cons. And Rel. On.

[P 378 C 2; P 379 C1, 2]

(f) Criminal trial – Indentification proceedings.

The practice adopted in the jail identification was that when a person had been arrested charged with complicity in the conspiracy, he was removed from the place of his arrest to a jail where he was in the custody of jail officials and not of police officials. After a certain period he was placed in a line which consisted partly of suspects, but mainly of persons who were not suspected of complicity in a crime. All these persons were dressed in a manner which would prevent witnesses from recognizing a suspect by peculiarities of constume. Witnesses to the offences were then called in one by one. The Magistrate deputed for the purpose was present at all identification proceedings. No two witnesses were allowed to communicate with one another. As each man completed his observation of the persons in the line he was put in a place where he could not communicate with anyone else. As far as possible persons were selected of the same class and position in life as the suspects. The suspects were permitted to change their places in the line from time to time. They were permitted to alter their personal appearances by changing their clothes or by shaving, or having their hair cut or in other manners. The Magistrate prepared a note embodying the results. These notes were proved in the case.

Held: that the identification proceedings were conducted most carefully and obsolutely honestly and that every precaution was taken to prevent dishonest or careless identification.

[P 379 C 2]

* (g) Criminal trial – Identifier not recognizing accused while in Court – His evidence of identification is weakened but is admissible.

It it is proved that the victim of a certain dacoity was present at jail identification proceedings and there stated in the presence of a third party that he identified a certain person as having taken part in the dacoity, it is permissible to produce evidence in a subsequent case that he made such an identification even if he has failed to identity that person: in Court: A.I.R. 1921 All.215, Diss. From: A.I.R. 1925. All 223, Appr.

[P 380 C 1]

The question as to, what weight is to be given to this evidence will be decided on the merits of each case. When a man has made an identification in jail proceedings and has been unable to repeat that identification in Court, his evidence of identification will be weakened but the evidence is admissible.

[P 380 C 2]

(h) Evidence Act. S. 10 and 30 – Confession of co-accused is

admissible against other accused – Evidence Act, S.30.

A confession of a co-accused implicating himself and others is admissible in evidence against all the accused under S. 10. It can also be taken into consideration against them under the provisions of S.30.

[P 383 C 1]

(i) Evidence-Fact of trial of other persons for same offence is irrelevant.

Where accused were being tried for having taken part in a certain dacoity, the fact that certain other persons were previously tried for complicity in that dacoity and acquitted is absolutely irrelevant and immaterial.

[P 405 C 1]

(j) Criminal trial – Sentence – Robbery for collecting funds to conduct revolutionery propaganda cannot be excused.

The distinction in gravity between the act of a man who shoots because he desires to kill another and a man who shoots to kill because he desires that another man should not interfere with his committing the robbery is too fine to form the basis for a difference in the sentence and there is nothing to make the robbery of in-offensive people, such robbery being accompanied by murder, appreciably excused by the fact that the perpetrators desired funds for the purpose of conducting a revolutionary propaganda.

[P 433 C 1]

L.S. Misra, J.N. Misra, Mohan Lal, H.C. Dutt, C.B. Gupta, J.Jackson, H.N.Misra, N.C. Dutt-for Appellants.

Jagat Narain and G.H. Thomas-for the Crown.

Judgment.-Between the 28th and the 31st January 1925, a four-page printed pamphlet was circulated secretly by post and by hand in the United Provinces and other parts of India. This Pamphlet bore the name of no printing press. The heading was

The Revolutionary – An Organ of the Revolutionary Party of India.

It was called the first number of the first volume, and bore the date of the 1st January 1925.

This was the first paragraph:

"Chaos is necessary to the birth of a new starr" and the birth of life is accompanied by agony and pain. India is also taking a new birth, and is

passing through that inevitable phase, when chaos and agony shall playtheir destined role, when all calculations shall prove futile, when the wise and the mighty shall be bewildered by the simple and the weak, when great empires shall crumble down and new nations shall arise and surprise humanity with the splendour and glory which shall be all its own.

In continuation it was stated that a new power had come into existence in India, that power being the revolutionary movement amongst young men, which, in spite of all opposition would eventually triumph. This movement had withstood repression for twenty years. It was now stronger than ever before, and its prospects were brighter. The writer then proceeded to justify the movement on the ground that India was ruled without justification by foreigners whose authority rested on dominion by the sword. The sword of those foreigners was to be met by the sword of the Indians.

The writer then proceeded to declare the "immediate" object of the revolutionary party which was to establish a Federal Republic of the United States of India by an organized and armed revolution.

Under this republic there would be universal suffrage, nationalization of railways, mines leading manufactures and the shipping industry. The legislature would control the executive. The aims of the revolutionary party were to be international rather than national and in this respect it follows the footsteps of the great Indian Rishis of the glorious past and of Bolshevik Russia in the modern age.

There would be equal rights for all communities, general co-operation and a spiritual recognition of the realities of life.

The writer continued that the time was not ripe for the disclosure of the policy and the programme of the party. The party reserved to itself freedom to associate or not to associate with the Indian Congress. Then follow the words:

But this party views all constitutional agitations in the country with contempt and ridicule.

After some amplification of this idea came the following passage:

Young Indians ! Shake off your illusions, face realities with a stout heart, and do not avoid struggles, difficulties and sacrifices.The inevitable is to come. Do not be misguided anymore. Peace and tranquillity you cannot have and India's liberty can never be achieved through peaceful and legal means. The following memorable words of a great English author, Mr. Roberston, may serve to make the wise men of India wiser still.

The movement and programme of reform was mainly the achievement of Irish and Protestant leaders to whom British statesmen had revealed the fatal secret that England could be bullied but not argued into justice and generosity. England under the Hanoverians, page 197.
Indian public leaders are still ignorant of this "fatal secret" or else they are follishly wise to ignore it.

The writer then proceeded to dispute the accuracy of the view that Indians were unable to drive the British out of India by force of arms. The pamphlet concluded as follows:

A few words more about terrorism and anarchism. These two words are playing the most mischievous part in India today. They are being invariably misapplied whenever any reference to the revolutionaries is to be made because it is so very convenient to denounce the revolutionaries is to be made refrence to the revolutionaries is to be made because it is so very convenient to denounce the revolutionaries under that name. The Indian revolutionaries are neither terrorists nor anarchists. They never aim at spreading anarcy in the land, and, therefore, they can never properly be called anarchists, Terrorism is never their object and they cannot be called terrorists. They do not believe that terrorism alone can bring independence and they do not want terrorism for terrorism's sake although they may at times resort to this method as a very effective means of retaliation. The present Government exists solely because the foreigners have successfully been able to terrorise the Indian People. The Indian people do not love their English masters, they do not want them to be here; but they do help the Britishers simply because they are terribly afraid of them; and this very fear resists the Indians from extending their helping hands to the revolutionaries, not that they do not love them.

This official terrorism is surely to be met bycounter-terrorism. A spirit of utter helplessness pervades every strata of our society and terrorism is an effective means of restoring the proper spirits in society without which progress will be difficult. Moreover the English masters and their hired lackeys can never be allowed to do whatever they like, unhampered, unmolested. Every possible diffculty and resistance must be thrown in their way. Terrorism has an international bearing also because the attentions of the enemies of England are at once drawn towards India through the acts of terrorism and revolutionary demonstrations and the revolutionaries are thereby able to form an alliance with them, and thus expedite the speedy attainment of India's deliverance. But this revolutionary party has deliberately abstained itself from entering into this terrorist campaign at the present moment even at the greatest provocation in the form of outrages committed on their sisters and mothers by the agents of a foreign Government, simply because the party is waiting to deliver the final blow. But when expediency will demand it the party will unhesitatingly enter into a desperate campaign of terrorism, when the life of every officer and the individual who will be helping the foreign rulers in any way will be made intolerable, be he Indian or European, high or low. But even then the party will never forget that terrorism is not their object, and they will try incessantly to organise a band of selfless and devoted workers who will devote their best energies towards the political and social emancipation of their country. They will always remember that the making of nations requires the selfsacrifice of thousands of obscure men and women who care more for the idea of their country than for their own comfort or interest, their own lives and the lives of those whom they love.

(Sd). Vijay Kumar,
President, Central Council,
The R.P. of India."

Vijay Kumar was a fictitious name.

Many copies of this pamphlet are proved to have been distirbuted over districts in the United Provinces between the 28th and the 31st January 1925. Other copies are proved to have been distributed in other provinces. Inspector Nestor has proved that three hundred and six copies were received in eighteen districts in this province and handed over to or recovered by the Government authorities. The recipients were for the most part schoolboys. In all cases the source from which these pamphlets had come was not revealed.

About a month previous to the distribution of these pamphlets (that is to say on Christman Day of 1924), an armed gang robbery (or dacoity) was committed in Bamrauli, a large village in the Pilibhit District, adjoining the border of the Shahjahanpur District. The house of Baldeo Prasad, a money-lender and sugar factory owner, was attacked by a gang of twenty or twenty-five men about an hour after sunset. Fire-arms were in possession of certain members ofthe gang and operations commenced with gunfire. Baldeo Prasad climbed upto the roof of the house, and, finding that certain dacoits were ascending the ladder from the countryard to the roof, endeavoured to resist them. A shot was fired at him which hit him in the neck. He then rushed from his roof to the roof of the house of a neighbour, and while running was shot again. Neither wound was fatal, and he survived. Villagers assembled, and made an attempt to disperse the dacoits by throwing bricks at them. The dacoits fired many shots at them. Mohan,

a Bamrauli resident, who was a village wrestler, challenged the dacoits to come down and fight the matter out as between man and man. A dacoit fired at him at close quarters, shot him through the abdomen and killed him instantaneously. Six other men in addition to Baldeo Prasad received wounds from firearms, none of which were fatal. The dacoits pillaged the house and eventually made good their escape with Rs.1,600 in cash and some three thousand to four thousand rupees worth of ornaments, leaving behind them one man shot dead and seven men wounded.

On the 9th March 1925, a similar armed dacoity was committed in Bichpuri, another village in the Pilibhit District. The victims on this occasion were Toti, a well-to-do Kurmi cultivator with a holding of some thirty-six acres, his brother Behari and their wives and children. A gang of over fifteen men raided their house between 9 PM and 10 PM. Some of the members of the gang were in possession of fire arms. The dacoits used considerable violance to the inmates and empolyed torture. One of them seized Toti's young son., placed the edge of a knife at his throat and threatened to cut his throat, if Toti did not disclose where his money and valuable were concealed. The boy was not, however, seriously injured. Toti was nearly throtted. The point of a knife was placed against each of his eyes and he was threatened with blindness if he did not give up his property. He was not blinded but he received a cut under one eye. Finally a cloth soaked in oil was inserted between his legs. The cloth was then set alight. In spite of this maltreatment he disclosed very little. The dacoits managed to secure Rs.800 or Rs.900 worth of property. Only a few shots were fired on this occasion. Two men received injuries from fire-arms,one of whom, Shal Lal, subsequently died. The other, Dulli, recovered. The dacoits made good their escape with the stolen property.

On the 24th May 1925, a third armed dacoity was committed at Dwarkapur in the Partabgarh District on the house of a certain Sheoratan Vaish. His house was attacked between 8 PM and 9 PM by eight or nine men who had fire arms and other weapons. Sheoratan was bitten in the arm, struck three times over the head with a hatchet, and robbed of property worth about Rs.2,000. The dacoits used fire arms freely. A villager called Ram Saran was shot dead and four other villagers received wounds from fire-arms. The dacoits made good their escape with the stolen property.

On the 9th August 1925, a fourth armed dacoity was committed. This dacoity was of a character unusal in India. A railway train known as

the 8 Down was proceeding on the broad gauge line of the East Indian Railway on its way towards Lucknow. It left Kakori railway station, which is eight miles from Lucknow, shortly after 7 PM. When it had reached a place a mile the other side of the distant signal a man pulled the communication cord of the alarm signal in a second class compartment and the train was brought to a standstill. Certain persons, some of whom were armed with fire-arms, got out of the train. When the guard descended to inquire the cause of the stopage certain men got into the brake-van. The guard was thrown down, over powered and threatened with death. A heavy safe containing railway takings was heaved by some of these men out of the brake-van on to the permanent way. The safe was broken open with tools which had clearly been brought for the purpose. While some of the men were breaking open the safe, others posted themselves on each side of the train. Cries were raised by the dacoits that their object was not to injure private persons but to take "Sarkari Property." This would mean either the property of Government or the property of the railway company. They also informed the passengers that any passenger who left the train would do so at the risk of his life. A fusillade of shots was maintained on each side of the train. Most of the passengers accepted the warninand remained inside. A Muhammadan legal practioner, Ahmad Ali, left his carriage in spite of the warning. He got on the permanent way and was shot dead. In about half an hour the safe was opened and its contents consisting of Rs.4,553-3-6 were abstracted. The dacoits then decamped with the plunder having escaped interference. The train then proceeded on its way to Lucknow.

It was not until after the commission of the train robbery that the existence of a conspiracy, the organ of which was "The Revolutionary" and the fruits of which were these four dacoities, was suspected by the police authorities. No theory was evolved untill the deputation of Mr. R.A. Horton, a Superintendent of Police, of the Criminal Investigation Department, to investigate the occurrence of the 9th August 1925. He took charge of this investigation on the 14th August, 1925. For reasons (which, as will be seen later, were justified) he turned his attention to the actions of certain suspects, and after interception of correspondence. Communication with his own department and Criminal Investigation Departments in other provinces, receipt of secret information and inquiries based on information received, he issued warrants of arrest on the 26th September 1925. Certain arrests took place under these warants. Amongst the persons arrested were two men called Banarsi Lal and Banwari Lal

and a boy called Indu Bhushan Mittra. As a result of the statements made by Banarsi Lal, Mr. Horton formed the opinion that the dacoities in Bamrauli and Bichpuri and the train dacoity were the work of persons engaged in a conspiracy against British rule. He subsequently, on internal evidence, formed the opinion that the Dwarkapur dacoity was also the work of the same gang. Statements made by Banwari Lal and Indu Bhushan Mittra confirmed his opinion in respect of the train dacoity.

As a result, the Local Government, United Provinces, issued sanction (Ex.P-2), on the 2nd December 1925, for the prosecution of twenty-four persons and sanction (Ex.P-7) on the 23rd December 1925 for the prosecution of three other persons, and sanction (Ex.P-341) for the prosecution of one more person. Saiyid Ainuddin, a First Class Magistrate, was appointed Special Magistrate in respect of the Committal proceedings. He framed charges against twenty-one of the persons on the 16th April 1926. These twenty one persons were tried by Mr. Hamilton, Sessions Judge, appointed specially for the purpose. He decided the case by a judgment dated 6th April 1927. The recording of the evidence in that case took about eight months. In that case Mr. Hamilton convicted the following persons on charges under the following sections:

(See Tabular Statement at Page 146)

He acquitted Hargovind and Sachindra Nath Biswas. The trial of a man called Damodar Sarup was postponed owing to his illness. Mr. Hamilton sentenced Ram Prasad Bismil, Rajendra Nath Lahiri and Raushan Singh to death, subject to confirmation by this Court, and also to other sentences. He sentenced Sachindra Nath Sanyal to transportation for life. He sentenced the remainder to various terms of imprisonment.

Ram Prasad, Rajendra Nath Lahiri and Raushan Singh appealed against their convictions and sentences. The references in confirmation are also before us. Jogesh Chandra Chatterji, Suresh Chandra Bhattacharji, Vishnu Saran Dublis. Manmatha Nath Gupta, Govind Charan Kar, Makundi Lal, Ram Kishan Khattri, Prem Kishan Khanna, Raj Kumar Sinha, Ram Dulare Trivedi, Ram Nath Pande and Parnawesh Kumar Chatterji also appealed.

The Local Government has applied for enhancement of sentences on Jogesh Chandra Chatterji, Suresh Chandra Bhattacharji, Vishnu Saran Dublis, Manmatha Nath Gupta, Govind Charan Kar and Makundi Lal. Parnawesh Kumar Chatterji has since withdrawn his allegations of innoceance, admitted the justice of his conviction and thrown himself on

the mercy of the court. Sachindra Nath Sanyal, Bhupendra Nath Sanyal and Banwari Lal have not appealed. The period in which they could have filed an appeal has now expired. Ashfaqullah Khan and Sachindra Nath Bakhshi are persons whose prosecution had been sanctioned by the Local Government. They were not apprehended in time to take their trial with the persons already mentioned.

Ashfaqullah Khan was committed by Saiyid Ainuddin, Special Magistrate, on the 14th December 1926. Sachindra Nath Bakhshi was committed by the same Magistrate on the 9th March 1927. They were tried together by Mr. J.R.W. Bennett, Special Sessions Judge, and convicted by him in a judgment dated 13th July 1927. Ashfaqullah Khan has been convicted on charges under S. 121-A, 120-B and S.396, I.P.C., and sentenced to death subject to confirmation by this Court and to other sentences. Sachindra Nath Bakhshi has been convicted on the same charges and sentenced to transportation for life. Ashfaqullah Khan has appealed. The arguments in his appeal No.380 of 1927 were heard by this Bench on the 3rd and 4th August, 1927, before the consideration of this judgement. Sachindra Nath Bakhshi has not yet appealed but there, is still time within which he can appeal. (For table see annexure-1)

The conduct of the cases in Mr. Hamilton's Court and the conduct of the appeals in this Court have been distinguished by incidents which are exceptional in the hearing of criminal cases in Oudh. As all the persons tried by Mr. Hamilton were charged with offences punishable with death, the Local Government, in compliance with a practice that was introduced a few years ago, offered every one of the accused persons legal assistance. Some of the accused persons took advantage of this offer; others provided themselves with counsel who were remunerated privately. The accused persons took, in some instances, the peculiar position of retaining a counsel for a short period, then discarding him and replacing him by another counsel, or defending the case in person. After discarding the counsel he was frequently employed again. The procedure was a procedure not to be commended. It placed the Court in a position of very great difficulty and no advantage was gained by its adoption. The result was an unavoidable fricition and protraction of the proceedings. Further, the hearing of the case in Mr. Hamilton's Court was considerably delayed by resorts to hunger striking. Objections which were frequently of a most frivolous character were lodged in very great numbers.

The most pertinacious of the accused persons was Ram Prasad. When

the appeals were filed the three appellants Ram Prasad, Rajendra Nath Lahiri and Raushan Singh, who were sentenced to death subject to confirmation by this Court, became entitle under a practice of the Local Government which has been in force for some years, to legal assistance at the expense of the Crown. The appellants, who had not been sentenced to death, were not under this practice entitled to legal assistance at the expense of the Crown. But as a Special case the Crown has allowed those, who did not appoint private counsel, legal asistance and paid for it. Ram Prasad, in his petition of appeal, demanded as of right to select his own counsel. He stated that he would only be satisfied if he was represented by a gentleman called Mr. Gobind Ballabh Panth, and, if he were not represented by Mr. Gobind Ballabh Panth, he demanded that he should be allowed to argue his appeal in person. The Crown approached Mr. Gobind Ballabh Panth and offered him the brief. He refused to accept it on the fee that the Crown was ready to pay. The Crown then approached Mr. L.S. Misra, a barrister-at-law of seven years' standing, offering him the same fee which had been offered to Mr. Gobind Ballabh Panth. Mr. Misra accepted the brief. Ram Prasad submitted a petition from the jail stating that he refused to accept Mr. L.S. Misra as his counsel and refused to instruct him. (vide A.I.R. 1927 O.312-Ed.) He demanded that he should be allowed to argue his appeal in person. Under the practice which has been prevalent in the late Court of the Judicial Commissioner and of this Court without interruption, convicts appealing from jail in the manner that Ram Prasad appealed, are not permitted to argue their appeals in person.

It is clear that a rule of practice has to be laid down to cover all cases. If one convict is permitted to argue in person, all convict-appellants should be permitted to do so. The practical difficulties against permitting them to do so would be very great. There are some five-hundred convict-appellants who appealed to this Court in the Course of a year, and the diffculties of arranging for their escorts from jail to the Court and for their return would be formidable. But the objection to permission to convict-appellants arguing in person is founded in the main, not on convenience, but in their own interests. It is our opinion that practically no Indian convict will gain anything by arguing his appeal in person. All such persons have had full opportunity of stating their cases in the lower Court. If they were permitted to argue their appeals they would usually do themselves more harm than good. In the particular case of Ram Prasad, if he had argued his appeal in person, he would have exposed himself to

having to answer objections which his laywer could answer without implicating his client. Ram Prasad, however, withdrew in the end his objections to Mr. L.S. Misra, subsequently instructed him and finally expressed his confidence in Mr. Misra's advocacy. In addition he has written himself and supplied written arguements which we have had printed and which cover senenty-six printed pages. These arguements have been considered by us. Rajendra Nath Lahiri at first applied to be represented by Mr. R.F. Bahadurji, Barrister-at Law Mr. -Bahadurji had left India before these appeals came on for hearing. He subsequently asked tbat he should be represented by Mr. H. C. Dutt, Barrister-at-Law.

Mr. H.C. Dutt was appointed to represent him. Raushan Singh, in his petition of appeal, demanded that he should be represented by Dr.J. N. Misra. Dr. J, N. Misra was appointed to represent him. Both Mr. H. C. Dutt and Dr. Misra argued on behalf of Rajendra Nath Lahiri and Raushan Singh, their fees being paid by the Local Government. But in addition to these gentlemen, Mr. Chatterji, a leading counsel of the Calcutta Bar, assisted by Mr. Chaudhri, who is also a counsel from Calcutta, argued the appeals on behalf of these two persons. Of the remaining appellants Prem Kishan Khanna was represented by Mr. John Jackson, a leading counsel of Lucknow. Vishnu Saran Dublis was represented by Mr. Kapil Dev Malaviya from Allahabad. The above gentlemen were private counsel. Mr. H. N. Misra appointed by the Crown appeared for Ram Nath Pande, Suresh Chandra Bhattacharji, Ram Dalare, Raj Kumar, Makundi Lal and Parnawesh Kumar Chatterji. Mr. N. C. Datt appointed by the Crown, appeared for Manmatha Nath Gupta, Ram Kishan, Jogesh Chandra and Govind Charan Kar. There was a suggestion made by Ram Prasad Bismil that the counsel appointed by the Crown had not been given a sufficient opportunity of studying their briefs. There is no foundation whatever for this suggestion. The counsel in question were given a sufficient time for the study of their briefs. It is quite clear that the time allowed was sufficient, as we were pleased to note, that in every instance the cases had been prepared with the greatest care, and the learned counsel engaged had mastered the facts and the law in a manner which did them considerable credit.

There are certain preliminary points of law which we can dispose of at the beginning. These points were raised by the learned counsel. Mr. Chatterji took objection to the joinder of charges under Ss. 121-A and 120-B and maintained that this joinder vitiated the trial. We are not of opinion that there was any irregularity in the joinder of these charges,

and we consider that on the facts it was necessary, to frame separate charges. The accused persons were all charged with conspiring to deprive His Majesty the King of the sovereignty of British India, of conspiracy to wage war against the Government, and of conspiring to overawe the Government by means of criminal force. They were, therefore, rightly charged under S. 121-A. Apart from the conspiracy to effect these objects there was, however, disclosed on the evidence a conspiracy to commit dacoities either accompanied by murder or not accompanied by murder, and thus certain of the conspirators were liable to punishment under S. 120-B for being party to a criminal conspiracy to commit offences, punishable with death or transportation for life. The actual participation in dacoities with murder formed ground for separate charges and the joinder of all these charges was regular and legal, as all these offences formed part of the same transaction. Some objections were taken as to the non-calling of witnesses. These objections will be dealt with when we come to the appeals of individual accused. It is sufficient to state here that in no case have the objections been substantiated. These are all the legal objections that were argued by the learned counsel at the Bar. All other objections were withdrawn.

We have, however, to consider certain legal objections which were taken by Ram Prasad Bismil in his written arguments to this Court or taken in Court below and not pressed here. It is unnecessary to take Ram Prasad's objections as disclosed in his written arguments in great detail as his learned counsel, Mr. L. S. Misra, has dealt sufficiently with them. Ram Prasad's objections are mainly contained in a comprehensive attack upon Mr. Hamiltion, upon Pandit Jagat Narain, the learned counsel who has appeared for the Crown both in Mr. Hamilton's. Court and in appeal, upon Mr. Horton, upon the police and practically upon everybody who has had any connexion with the case. He has not only suggested that Mr. Hamilton was not impartial but he has suggested that he was deliberately dishonest. He has made similar, attacks upon everyone else. We have been through the very lengthy record, the mass of applications and the whole of the protracted proceedings, and after Examination of everything. we are convinced of the following facts. :

The preparation of the case, in so far as it was made by the police authorities, was throughout in the hands of Mr. Horton who made himself personally responsible for the production of every piece of evidence. We here state our appreciation of the industry and capacity shown by Mr. Horton in the collection of the evidence. The skill displayed in its

presentation deserves the highest appreciation. The conduct of the case was in the hands of Pandit Jagat Narain, a very senior and very competent counsel. We appreciate highly the manner in which Pandit Jagat Narain conducted the case. But our appreciation is not only of the ability with which the case was put up. Our highest appreciation is reserved for the scrupulous fairness with which it was presented against the individual accused persons. The prosecution, if we may say so, was almost ultrascrupulous. It refused to press a single point unless it felt itself on the surest ground. Mr. Hamilton showed exemplary patience and an absolute impartiality in his handling of the case. He showed very high gifts in his appreciation of the evidence which he weighed with care. The learned Judge and the Crown counsel were exposed to a series of studied impertinences from certain of the accused persons, and we are constrained to express our disapproval of the conduct of certain of the counsel for the defence. We have in our mind a particular passage in a written objection filed by a member of the Lucknow Bar in which he transgressed the rules of conduct that should distinguish a counsel in addressing a Judge. The allegations and aspersions made by Ram Prasad have been considered carefully by us and we find them to be absolutely baseless. The extraordinary impertinence displayed by this accused is apparent from an application which he filed on the 26th January 1927, in which he withdrew his defence witnesses. This application is as follows :

Sir,

I have been watching the case from day to day and every new day brought home to me new in-stances of gross partiality on your honour's part. I was not astonished, because the attitude of the Government was apparent to all concerned when it appointed you as the trial Judge in this casa (the Kakori conspiracy case). But still I thought each day that perhaps I may be biased. that perhaps I was judging too hastily, possibly this, day will be the last bitter day, But my hopes always proved to be illusive. I found you showing more interest in establishing the prosecution case than the prosecution counsel himself. In fact in good many instances you had put questions in such a suggestive form that the prosecution counsel himself felt ashamed to put those questions. You almost always interrupted the defence cross examination.so obstinately that there remained no other alternative except either to come to blows with you or to submit to your high handedness with flushed facts and blood curdling in one's veins.

There is much more in the same strain. The only point of law raised by Ram Prasad in his written arguments which is worth considering in

detail, is an objection to the committal. His objection is based on the following fact : Saiyid Ainuddin, as has already been stated, was appointed as Special Magistrate. One of his duties in connexion with the proceedings was supervision of jail identifications. He conducted all the jail identifications in person. As it was known that the appellants would criticize the conduct of the jail identifications it was clear that Saiyid Ainuddin would be required to give evidence on oath as to the manner in which they were conducted. Ordinarily his evidence would have been taken for the first time in the Court of Session. The method adopted would be to call him as a Court witness. But Saiyid Ainuddin, in order to give the defence a better opportunity of preparing their ciriticizms on the conduct of the investigation, took the unusual course of going into the witness-box during the committal proceedings. This course was unusual. There is a precedent for a similar procedure in Emperor v. Nanhe[1]. A learned Judge of the Allahabad High Court refused to set aside a conviction in a case in which a Magistrate had actually given evidence before himself in a case which he subsequently conducted himself. It certainly would appear to be open to objection for a Magistrate to decide on the value of his own evidence but where the Magistrate, as here, had not to decide but solely to commit, there is nothing objectionable to the course adopted by Saiyid Ainuddin, and it is clear that the result, so far from prejudicing the accused persons assisted them in their defence. We do not find that this action taken by Saiyid Ainuddin has either vitiated the committal or the trial. We here leave the general objections on points of law. It is to be noted that the only objections pressed by counsel in this appeal were the objections as to the joinder of the charges and as to the non-calling of the witnesses in certain instances. As we have said we shall deal with the latter point later.

Before we proceed with the remainder of the judgment we think it desirable to express our appreciation of the admirable manner in which the appeals have been argued before us. The learned counsel for the appellants have argued fairly and have argued capably. The reply on behalf of the Crown could not have been better. We wish to say a special word as to the assistance that the Court has received in comprehending the record and examining the documents from Mr. Khairat Nabi, Rai Saheb Durga Prasad and Khan Saheb Saiyid Hasan specially deputed officers of the Criminal Investigation Department who have worked in open Court assisting us in dealing with the documentary evidence.

We have first to make some general observations as to the method

which we have adopted in approaching certain portions of the case. We are not dealing here with controversial points, as there has been no controversy on those questions. The first point that we have to note is the construction to be placed upon the provisions of S. 10, Indian Evidence Act. This section renders admissible in cases of conspiracy much evidence which is not ordinarily admissible 'under the Indian Law. The provisions of the section are wider than those of the English law. Under it anything said, done or written by any conspirator in 'reference to the common intention of the conspiracy after the time when such intention was first entertained by any conspirator is a relevant fact as against each of the persons believed to be so conspiring as well for the purposes of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it. The illustration shows the width of the provisions of the section. It is laid down that where a person is shown prima facie to be a conspirator, evidence that a second conspirator procured arms, a third collected money, a fourth persuaded persons to join the conspiracy, a fifth published writings advocating the object, a sixth-sent money-to a seventh, and an eighth wrote a letter giving an account of the conspiracy is relevant as evidence and admissible against him to prove his complicity though he was ignorant of all events and although the persons in question were strangers to him.

We have next to state the manner' in which we have approached the evidence' of accomplices. The evidence of accomplices is always admissible and is always relevant but under a very old practice of the Courts in England such evidence is accepted only with great caution and after the closest scrutiny, and is not usually accepted against any individual person unless it is corroborated. Although it is not illegal to convict on the uncorroborated evidence of an accomplice, there is a consensus of opinion that a conviction on the uncorroborated evidence of an accomplice is rarely justifiable. The practice in India is the same as the practice in England. We have followed that practice in this case but while following the practice we have considered very carefully a comparatively recent pronouncement of the Court of Criminal Appeal in England consisting of the Chief Justice and four other learned Judges which is reported in Rex. v. Baskerville[2]. The facts in appeal were these : A male person was convicted of an offence punishable under S. 11 Criminal Law Amendment Act, 1885 with two boys. The only direct evidence of the acts charged was that of the boys themselves who on their own statement were accomplices. The only corroboration of the boys' statement was contained

in the contents of a letter sent by the prisoner to one of the boys enclosing a treasury note for ten shillings. The words of the letter were capable of an innocent construction. This letter was however, considered sufficient corroboration, and the conviction was upheld. In the judgment in this appeal their Lordships have stated the law in the following words :

There is no doubt that the uncorroborated evidence of an accomplice is admissible in law :-See Rex v. Atwood [3]

But it has long been a rule of practice at common law for the Judge to warn the jury of the danger of convicting a prisoner on the un-corroborated testimony of an accomplice or acomplices. and in the discretion of the Judge, advise them not to convict upon such evidence; but the Judge should point out to the jury that it is within their legal province to convict upon such unconfirmed evidence ; Regj v. Stubbs [4]; in re Meunier [5].

As the rule of practice at common law was founded originally upon the exercise of the discretion of the Judge at the trial, and, moreover, as it is anomalous in its nature, inasmuch as it requires confirmation of the testimony of a competent witness, it is not surprising that this rule should have led to differences of opinion as to the nature and extent of the corroboration required although there are propositions of law applicable to corroboration which are beyond controversy. For example, confirmation does not mean that there should be independent evidence of that which the accomplice relates, or his testimony would be unnecessary: Reg v.Mullins[6], per Maule, J. Indeed if it were required that the accomplice should be confirmed jn every detail of the crime his evidence would not be essential to the case ; it would be merely confirmatory of other and independent testimony. Again the corroboration must be by some evidence other than that of an accomplice and therefore one accomplice's evidence is not corroboration of the testimony of another accomplice ; Rex v. Noakes[7].

After examining these and other authorities to the present date, we have come to the conclusion that the better opinion of the law upon this point is that stated in Reg v. Stubbs (4) by Parke, B. namely that the evidence of an accomplice must be confirmed, not only as to the circumstances of the crime, but also as to the identity of the prisoner.The Iearned Baron does not mean that there must be oonfirmation of all the circumstances of the crime; as we have already stated that is unnecessary. It is sufficient if there is confirmation as to a material circumstance of the crime and of the identity of the accused in relation to the crime. Pa rke, B., gave this opinion as a result of twenty-five years practice it was accepted by the other Judges and has been much relied upon in later cases. In Rex v. Wilkes.[8] Alderson, B., said, "the confirmation which I always advise

juries to require is a confirmation of the accomplice in some fact which goes to fix the guilt on the particular person charged. You may legally convict on the evidence of an accomplice only if you can safely rely on his testimony, but I advise juries never to act on the evidence of an accomplice unless he is confirmed as to the particular person who is charged with the offence."

We hold that evidence in corroboration must be independent testimony which affects the accused by connecting or tending to connect with the crime. In other words, it must be evidence which implicates him, that is, which confirms in some material particulars, not only the evidence that the crime has been committed, but also that the prisoner committed it…

The corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime.

We have next to make some general observations on the manner in which the jail identifications were conducted The practice adopted in this case was that when a person had been arrested charged with complicity in the conspiracy he was removed from the place of his arrest to a jail where he was in the custody of jail officials and not police officials. After a certain period he was placed in a line which consisted partly of suspects but mainly of persons who were not suspected of complicity in a crime. All these persons were dressed in a manner which would prevent witnesses from recognizing a suspect by peculiarities of costume. Witnesses to the offences were then called in one by one. Saiyid Ainuddin was present at all identification proceedings. No two witnesses were allowed to communicate with one another. As each man completed his observation of the persons in the line he was put in a place where he could not communicate with any one else. As far as possible persons were selected of the same class and position in life as the suspects. The suspects were permitted to change their places in the line from time to time. They were permitted to alter their personal appearance by changing their clothes or by shaving, or having their hair cut or in other manners. After the identification proceedings were over Saiyid Ainuddin prepared a note embodying the results. These notes have been proved in the case. Saiyid Ainuddin has been examined as a witness and cross-examined at great length. In this Court no suggestion has been made by any learned counsel that these identification proceedings were unfair in any respect, but before the learned Sessions Judge sweeping allegations were made against the honesty of the identification proceedings. Our conclusion as to the manner

in which the identification proceedings were conducted is that they were conducted most carefully and absolutely honestly and that every precaution was taken to prevent dishonest or careless identification. In fact our criticism is that in a desire to protect the interests of the suspects the learned Magistrate was possibly inclined to place difficulties in the path of honest identifying witnesses.

We have here to touch upon a point which arises out of the identifications. There have been occasions in this case in which witnesses who identified in jail a suspect in connexion with a particular offence were unable subsequently to identify that suspect either in the Court of the committing Magistrate or in the Court of the Sessions Judge or in both. It was argued in the Court below (although it was not argued here) that evidence of identification in the jail could not be treated as subsequent independent evidence in the trial as such identification amounts to statements either expressed or implied made by certain persons that the individuals whom they pointed out were persons whom they recognised as having been concerned in a particular crime. Such statements not having been made on oath and having been made in the course of extra judicial proceedings they were admissible not as substantive evidence in the case, but merely as evidence to corroborate or contradict their statements in Court and as such were not admissible in evidence. The authority for this proposition is a decision of a Bench of two learned Judges of the Allahabad High Court which is reported in Nagina v, Emperor[9]. With great respect to the learned Judges who decided that appeal, we are of opinion that although there is much that is correct in their observations the decision has omitted certain necessary, qualifications. Reading the decision as it stands, it would almost appear that the learned Judges laid down that in no circumstances was the evidence of such identification admissible. We cannot accept that conclusion. In our opinion, if it is proved that the victim of a certain dacoity was present at jail identification proceedings and there stated in the presence of a third party that he identified a certain person as having taken part in the dacoity, it is permissible to produce evidence in a subsequent case that he made such an identification even if he has failed to identify that person in Court. In certain cases it might be impossible for a witness to identify again in Court. After having made the jail identification the witness might lose his eyesight, and in such case it would not be physically possiblefor him to repeat his identification. In a subsequent case in Emperor v. abdulWahab[10] another Bench of the Allahabad High Court supplemented

the decission in Nagina v. Emperor (9) by pointing out how such an identification could be proved in evidence. We agree with t he conclusion of the learned Judges in the latter case. It is noted in the present case that when a witness who made an identification in jail was unable to repeat it in Court, outside evidence has been called to prove that the witness did make such identification and .the circumstances in which he made it, andwe find that evidence of this nature is admissible. The question as to what weight is to be given to this evidence will be decided in the individual cases of each particular appellant. Obviously when a man had made an identification in jail proceedings and has been unable to repeat that identification in Court, his evidence of identification will be weakened, but, in the circumstances which we have detailed, the evidence is admissible. Its value will be considered separately.

Finally we have to state the method in which we have approached the evidence as to the handwriting of particular appellants. The method adopted of proving the handwriting in this case hasb been by the production in some instances of witnesses who have proved that they were acquainted with the handwriting of the appellants. The main evidence, however, has been the evidence of a certain Mr. Stott, a gentleman who is employed by the Government of India to report upon questions of handwriting. The course, adopted has been to prove by outside evidence that a certain document is in the handwriting of a particular appellant.

The handwriting of the documents which the prosecution has endeavoured to prove against him has been compared by Mr. Stott with proved or admitted handwriting. We may call the latter handwriting the standard handwriting. Mr. Stott made his comparisons privately but repeated and explained them in open Court. We have examined Mr. Stott's evidence carefully and are satisfied that Mr.Stott is competent to express an opinion upon the points to which he has deposed. We have been particularly struck by the fact that he does not rely upon fanciful theories, and that his comparison is the comparison of a practical intelligent man with a wide experience of the subject based upon conclusions which appeal to practical men. We have not however, accepted Mr. Stott's opinion as final. In every instance we have ourselves compared the handwriting of the documents proposed to be proved with the standard handwriting of the particular appellant. We have derived much benefit from his observation but our findings are based upon what we have observed for ourselves. In every instance we find ourselves in agreement with Mr. Stott.

The evidence in this case is voluminous, and the points are not always

easy to grasp. Very many questions of fact and law have been discussed. Every important point which was raised before the trial Court has been argued at length by the learned counsel for the appellants and the learned counsel for the Crown. We have already touched on some of these questions and reference will be made in detail later to many more, but we are not attempting to make a reference to all the arguments. It would be impossible to discuss every question raised, unless the judgment were permitted to extend to an undesirable size. Arguments of a transient character will not receive special comment in this judgment. No advantage will be gained by discussing them. It is to be remembered that the arguments in these appeals have lasted for sixteen working days. The arguments have been concentrated arguments. There has been little reiteration or repetition. Although we shall not discuss every individual argument, there is not a single argument advanced before us which has not been considered.

We shall first state the evidence as to the existence of the general conspiracy. Where that evidence is the evidence of accomplices, we shall note the corroboration mainly as to the existence of the conspiracy, but we shall forestall some of the conclusions at which we have arrived in respect of corroboration as to the individual conspirator. Wherever in this portion of the judgment we state the conclusion that the evidence of an accomplice is corroborated as against an individual conspirator our reasons for the conclusion will be found in detail in that portion of the judgment which deals with his individual case.

The first witness is the accomplice Banarsi Lal who was arrested in this case and subsequently given pardon. Banarsi Lal is a Hindu of Shahjahanpur, a carpenter by caste. He was not a working carpenter, his father having amassed a competence as a contractor. He is now a man of about thirty years of age. His father died when he was seventeen leaving him over Rs, 50,000 in cash and immovable property. He was a spendthrift and dissolute on his own admission and in four years he had wasted practically all his means. In 1921, after he had lost the greater part of his money he engaged in politics and became Secretary to the local Congress Committee in Shahjahanpur. In connexion with his political activities he became acquainted with Ashfaqullah and Ram Prasad. We note here that in this appeal we shall refer to the evidence on the record against Ashfaqullah. By the adoption of this course we are not prejudicing Ashfaqullah in any way. We have already heard his appeal and the conclusions at which we arrive against him in this appeal are the conclusions at which we have arrived against him in his own appeal which will be

decided with this appeal. As, however, Sachindra Nath Bakhshi has not yet appealed and there is still time for him to do so, we have refrained from considering the evidence against him in this case, and we have not allowed any discussion upon it. As far as Sachindra Nath Bakhshi is concerned we know nothing as to what he is alleged to have done and have naturally formed no conclusions one way or another in respect of him. Ram Prasad is a man who is now about twenty-eight years of age. His home is in the Gwalior State, but for many years he has been residing in Shahjahanpur. We are not prejudicing him by stating that he has been largely engaged in political activities. He has himself pressed on the notice of the Court that he has been largely engaged in political activities, and attributes his prosecution to the fact that these political activities have rendered him an object of undeserved suspicion. Ram Prasad has been for some time carrying on business as the manager of a firm in Shahjahanpur which deals in silk. He had also other business interests. Ashfaqullah is a Pathan of good family and some social position. He is about the same age as Ram Prasad. He resided in Shahjahanpur living on his own means and not engaged in any employment. Ram Prasad and Ashfaqullah and Banarsi Lal were according to Banarsi Lal's evidence great friends. They went together to the meeting of the Congress at Ahmadabad in 1921. Ram Prasad used to lend books to the other two. These books were books extolling revolution as the solution of life. In 1922 the three friends went to the meeting of the Congress in Gaya. Another person present at the Congress was Prem Kishan Khanna appellant. Prem Kishan is now about twenty-six years of age. He is the son of an lndian engineer who is on the staff of the East Indian Railway. He has been working for some years as a contractor in Shahjahanpur.

In 1924, according to Banarsi Lal at the end of the hot weather or at the beginning of the rains (that is to say about July), a man who has been identified as the appellant Jogesh Chandra Chatterji came to Shahjahanpur. He passed himself off under names which were clearly fictitious: "Roy Mahasho" or "Roy Dado." This man is a resident of a village in the Dacca District of Bangal. A meeting was held in the house of Ram Prasad at which there were present Jogesh Chandra Chatterji, Ram Prasad, Ram Dulare, appellant, Ashfaqullah, Banarsi Lal and a tall man about whom nothing is known. Ram Dulare is a youth who lives in Cawnpore. He apparently does not earn his own living. According to Banarsi La1 this meeting was to discuss the formation of a branch of a revolutionary society in Shahjahanpur. The organizers of this society were Jogesh Chandra

Chatterji, Ram Dulare and the tall man. It was decided to form this society. Ram Prasad was appointed provincial organizer. Ashfaqullah was appointed his assistant. Banarsi Lal was enrolled as a sympathizer. According to Banarsi Lal Roy

Mahasha had said that the English were to be slain and turned out of India by force and an Independent lndian republic was to be established. He said that all the public of India was to be armed and to be made acquainted with, the aims and objects of this revolutionary society. He also said that the mnoney required was to be obtained by decoities. It was to be collected for getting arms and for propaganda. The propaganda was to be by pamphlets, books, leaflets and other printed matter. Ram Prasad and Ram Dulare were present and supported Roy Mahasha with their remarks. Roy Mahasha said names should not be given or asked and any harm causad by a member to the Society would be punished by death.

A few days afterwards Raushan Singh, appellant, appeared on the scene. Raushan Singh is a Thakur who has some interest in landed property in a village in Shahjahanpur District. He is now a man of about thirty-six years of age. Raushan Singh had previously known Ram Dulare. He was an old friend of Banarsi Lal.

We now leave for the present the evidence of Banarsi Lal and come to a statement made by Banwari Lal. Banwari Lal, as has already been said, was one of the accused in this case, made a full confession on the 3rd January 1926, before the Special Magistrate, He retracted this confession before the Special Magistrate on the 20th March 1926. He stated before the committing Magistrate on that date that he had made this confession under the promise of a pardon, but that, as he was not satisfied with the terms offered him he refused to repeat it. He stated that the confession was absolutly untrue, and had been made by him solely in order to get easily out of the case. On the 18th December 1926, he resiled from that position before the Sessions Judge. He there stated that his original confession was absolutely true, as far as it went, but that in it he had omitted to mention the name of one accused person as a member of the conspiracy because he wished to shield that person. He said that he had retracted his confession before the Magistrate at the request of Ram Prasad who said it would be to the profit of the remaining accused if he did so. He continued:

At first I was unwilling, but when Ram Prasad said that it was the opinion of the counsel that it should be retracted then I agreed. He also

said that he had no hope that. Banarsi would retract, but he had hopes about me and so I agreed. He also said that Mr. Chaudhri will be counsel for me: so I retracted.

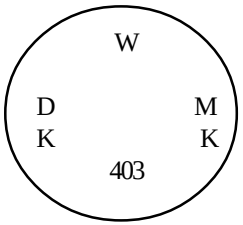
He admitted that all the allegations made by him against Mr. Horton were untrue. He was subsequently convicted and sentenced to five years' rigorous imprisonment. He has not appealed and period in which he could appeal has now expired.

This confession is admissible in evidence against all the appellants under provisions of S. 10, Indian Evidence Act. It can also be taken into consideration against them under the provisions of S. 30 of the same Act. According to this confession he is a Kayasth, aged now about twenty-four, a resident of Osah in the Rae Bareli District. His father is an estate manager. When he was about sixteen ha left the Government High School at which he was a pupil, to show his sympathy with the non- co-operation movement and joined various nationalist institutions. He worked for the Partabgarh Congress committee and went to jail for six months as a result of his activities. Afterwards he lived for some time on and off in Allahabad. According to this confession he met Jogesh Chandra Chatterji in 1923. In Allahabad Jogesh Chandra Chatterji informed him that there were revolutionary societies in the making. Banwari Lal wished to go Lahore to join the Tilak School of politics, but on Jogesh Chandra's advice, he went to Partabgarh to see if he could establish a branch of the revolutionary society there.

We now return to Prem Kishan, Khanna. On the 31st March 1924, Prem Kishan Khanna obtained an arms licence for possession of a Mauser automatic pistol of German manufacture. This pistol was a 300 loading a magazine containing ten cartridges. He was in a good position to obtain the license, owing to the position held by his father as an engineer in the superior service of the East Indian Railway Company.

It is proved and admitted that on the 7th August 1924, Ram Prasad purchased fifty cartridges from the firm of P. N. Biswas & Co. licenced dealers in arms and ammunition at Cawnpore. He purchased these cartridges on the authority of Prem Kishan's license. The purchase was made by Ram Prasad in person. The fifty cartridges in question were made up in clips containing ten cartridges each. The cartridges were of German manufacture "Doutsche Waffen Fabrik Mauser." The cartridges were of metal. On the base of each cartridge are the following letters and

figures:



Ram Prasad had, under the rules, to sign in a register as purchaser. He signed the register. He did not sign his own name. He signed the name of "Prem Kishan." This is admitted.

The significance of this incident will be seen when the evidence as to the commission of the dacoities is considered.

On the 18th October 1924, Jogesh Chandra Chatterji was arrested in Calcutta as a suspicious character. He was arrested by members of the Calcutta police force. We shall consider the circumstances of his arrest when we consider his individual case. We note here that we are satisfied that on his arrest a paper (Ex. P-198) was found on him. The following was written on this paper in a handwriting unknown:

A meeting of the P. C. was held on the 3rd Octobar 1924, in which five among six attended and the following resolutions were passed.

1. Keeping in view the fact that more or less efficient representatives acting as or in capacity of district organizers are already posted in the following districts :

Benares, Allahabad., Partabgarh, Cawupore, Lucknow, Fatehpur, Jaunpur, Jhansi, Hamirpur, Farukhabad, Mainpuri, Etawah, Agra, Aligarh, Muttra, Bulandshahar, Meerut, Delhi, Etah, Bareilly, Pilibhit, Shahjahanpur, Muzaffarnagar.

The remaining districts of these provinces be thus divided among the said organizers so 'long as sufficient number of efficient men are not available to act as district organizer in each district.

I. Benares, Mirzapur, Ghazipur, Balia, Jaun-pur, Azamgarh, Basti, Gorakhpur, Rai Bareilly, (Sic) III. Jhansi, Banda.

II. Cawnpore, Rai Bareilly, Gorakpur, Unao.

IV. Aligarh, Anupsar.

V. Meerut, Shaharanpur, Dehra Dun, Almora, Bijnour, Budaun, Moradabad.

VI. Shahjahanpur, Nainital, Garhwal, Lakhimpur, Sitapur, Hardoi.

VII. As at present there is no member to represent; the Fyzabad division consisting of Fyziabad, Bahraich, Gonda, Bara Banki and Sultanpur it is resolved that a suitable member be sent there to take charge, of the centre at the earliest opportunity.

2. That at least one hundred rupees.(considered to be the least expenditure in case of dire necessity at present) be raised by subscription from members and sympathzirs of the following centres : Benares, Cawanpore, Jhansi, Aligarh.

Meerut and Shajahanpur, the sum being contributed equally by each centre.

(a) That at least a subscription of four annas be realised every month from each member of the association,

(b) That the above resolution is to be given effect to within the next two months.

3. That the meeting recognizes that the total number of its members up to the present time is about one hundred, the following being the total strength in each centre ; Benares l9—Cawnpore 22—Jhansi 15—Aligarh 12, —Meerut (not yet received),—Shahjahanpur 8.

4. That the meeting is of the opinion that the following immediate steps be taken as regards its propoganda through newspapers, and magazines which can be utilised by the members of different centres :

(a) To set up a campaign against tha C. I. D. activities.

(b) To set up a campaign against the repressive laws and measures.

(c) To criticize the congress activities that hinder the work of the association.

(d) To preach social revolutionary ideas and communistic principles.

(e) To collect stories, episodes and other materials for publication.

5. That the department of F money collection be at present placed under the sole charge of Nos. 2, 4. and 6 subject to occasional supervision by the P. C. All information regarding this department from different centres be submitted to the said Nos. 2, 4. and 6.

That instead of five departments as mentioned in the general

constitutional rules and regulations, only two departments be set up at present :

(a) Propaganda to be guided by Nos. 1, 8 and 5,

(b) Collection of funds and arms by Nos. 2, 4 and 6.

7. That all the genera! constitutional rules and regulations be enforced in their entirety except the 6th resolution which was accepted after amendment for the present.

8. That every possible care be taken as regards the secrecy of the activities of the association.

9. That every district organizer should try his best to help the local clubs and associations started with principles which may directly or indirectly promote the cause of revolution and to try to become members of the congress and take part in its activities whenever advisable putting in view the rules of the association.

10. That every district organizer should make arrangements to visit neighbouring villages and labour centres with the object of gaining their sympathy.

11. That to provide workers with work it is necessary to divide the district activities into three channels—

(a) Village works.

(b) Secret works.

(c) Local social functions and activities connected with clubs and associations.

The Bengal police did not follow up the clues contained in this document. It is unfortunate that they did not do so.This much, however, should be said to explain their inaction. There was nothing upon this paper to show where the meeting of "P. C." (provincial committee) was held and there was nothing to show who were the members. About the period the Criminal Investigation Department of Calcutta and in fact the whole of the Police Force of Calcutta were very actively occupied in the suppression of movements connected directly with their own province. This afforded considerable excuse for delay in communicating the arrest to the police 0f this province.

The next witness whose evidence we shall consider is also an accomplice who was arrested in this case. A pardon was subsequently tendered to him. He is a Bengali youth called Indu Bhushan Mittra. In 1924 he was fourteen years old. He was then residing with his father Dr. H. D. Mittra, Health Officer of Shajahanpur, and was studying in the

High School at Shajahanpur. Ram Prasad made his acquaintance and lent him books. He says :

The effect caused by my reading those books was that the English were ruling India by force and by a revolt they should be driven out of India by force.

Ram Prasad showed him the rules of the revolutionary society. They are the rules which Mr. Hamilton calls the "yellow leaflet." We shall state what they were at a later place. He also gave_ him a copy of the "Revolutionary" to read. As a result of Ram Prasad's conversation, the perusal of these books and "The Revolutionary" he wished to join the society. Owing to his youth he was not accepted as a working member but he was employed by Ram Prasad as a person whom letters of a compromising nature, were to be sent. On receipt of these letters he handed them over to Ram Prasad. He knew that the letters were intended for Ram Prasad by the fact that there was a special mark under the name of the post town "Shahjahanpur." The letters were addressed to Indu Bushan Mittra. He received a large number of letters.

According to Banarsi Lal the member of the Shahjahanpur branch of the revolutionary society were only Ram Prasad, Ashfaqullah and himself. Banarsi Lal stated that Prem Kishan, Raushan Singh, Indu Bhushan and a man who has since been acquitted and to whom reference need not be made, were friends and associates of Rarm Prasad, but that, as far as he knew none of them were members of the society. Indu Bhushan Mittra has, however, stated that ha considered himself a member of the society and that he understood that, in addition to Ram Prasad and Ashfaqullah, Prem Kishan and Raushan Singh were also members of. the society. He added that he did not know that Banarsi Lal was a member. Banarsi Lal has deposed that the members used assumed names amongst themselves. He was called "Babua," Ram Prasad was called "Anant Parkash" and other names. Ashfaqullah was called "Kunwarji" or "Warsi." He introduced the names of two other appellants who, he said, were members of the party, but who did not belong to Shahjahanpur. One of these was Manmatha Nath Gupta, and the other was Ram Kishan Khatri. He said that these men used to visit Shahjahanpur. Manmatha Nath Gupta is a youth who resides in Benares and was studying there in a privately managed school in which Damodar Sarup was a master. Manmatha Nath Gupta was known under the name of "Nawab." Ram Kishan Khatri is a young man from the Central Provinces. He is a resident of Chanda. He has

stated that he has now become a religious ascetic. He was known under the name of "Ganga Ram."

According to Ex. P-198 the province was to be divided into revolutionary centres each with headquarters. According to the prosecution there was a centre in Benares to which belonged Rajendra Nath Lahiri, appellant, Manmatha Nath Gupta, Ram Nath Pande, Appellant, Raj Kumar Sinha, appellant, and Damodar Sarup. Rajendra Nath is a man who is now about 24 or 25 years old. He occupied himself in Benares partly as a student at the Hindu University and partly assisting in a shop belonging to his brother. The shop is a medical dispensary known as " Star & Co." Manmatha Nath Gupta has already been described. Ram Nath Pande is a schoolboy at Benares. Raj Kumar Sinha is a resident of Cawnpore, but at that time he was reading as a student in the Central Hindu College. He is now a man of about 21 years of age. Damodar Sarup was a master at the Kashi Vidya Pith, a privately conducted school in Benares. Manmatha Nath, as has already been stated, was studying at his school. We have had to consider certain facts about Damodar Sarup, although he has not been convicted in this case. He has neither been convicted nor acquitted. From the commencement of proceedings he starved himself with the result that his health became so seriously affected that it was not considered desirable to proceed with the case against him. We do not consider that the fact that he has deliberately prevented a decision by his own act, is a sufficient reason for ignoring his connexion with the case. But we shall, as far as possible, avoid an expression of opinion as to his guilt or innocence. We have here to add the names of two other persons. Parnawesh Kumar Chatterji is one. He is a youth residing in Jubbulpur who has been convicted and ha.s appealed, but who has subsequently withdrawn his defence. The other is Kunwar Bahadur who is one of the witnesses. He is a young man who has not been prosecuted, a great friend of Banwari Lal. He has given evidence against Banwari Lal. Although he has not been prosecuted, he is on his own showing an accomplice. He sympathized with the movement and used to receive letters and money orders on behalf of Banwari Lal.

When Parnawesh Kumar Chatterji was arrested a postcard (Ex. P-171) was found in his possession. It is dated llth November and was received in November 1924. The following is a translation of its contents :

Dear Parnawesh,

Just received your letter. From reading your last letter it seems that your mind is still full of remorse. Dear Parnawesh, this is not right. My

condition has become similar on looking at the circumstances. But a faint light of hope has appeared amidst hopelessness.

I have secured one carpenter who will prepare the thing. But I have not yet told it to Kashida. Remember that he is to be paid his labour and expenses. One will be prepared within nine or ten days. But I have nothing with me. However, I shall manage anyhow to purchase the first one. I am thinking what will happen next. I want to have your advice in the matter. You are a businessman. So I write to you about this petty matter. Hope you will not mind it. It.is useless to speak to Kashida, because he too is penniless. Do not forget to write how your work is going now. If no work has been accomplished write to me anything. I take delight in reading your handwriting. My love to you.

Yours, Anil

We find this postcard to have been in the handwriting of Manmatha Nath Gupta.

Kunwar Bahadur has deposed that it was a practice among the conspirators to veil their meaning by the use of expressions which meant something definite to the recipient that was not borne out by the words. He says :

Banwari Lal read out some of the letters. I remember the expressions. How is mother? Father is passing through station, meet him there. Banwari Lal explained that 'How is mother' meant how is the work of the society going on and 'father was the central organizer. He was the central organizer of the Revolutionary Society.

It is a fair inference apart from Kunwar Bahadur's evidence that these documents have an inner meaning. It is not clear what the reference is to the "carpenter" who is to prepare the thing."It is, however, noticeable that some six weeks after this postcard was received the Revolutionary was circulated, and it is in evidence, as will be seen later, that fund may be a reference to the printing of the "Revolutionary." Subsequent evidence will show that both Manmatha Nath Gupta and Parnawesh Kumar Chatterji were on what may be called the secretarial staff of the revolutionary organization. On the 28th November 1924, Rs. 10 were sent by money order (Ex. P-96) to Banwari Lal in the name of Kunwar Bahadur from Cawnpore. The name of the remitter is signed N. Prasad. We find it proved that the handwriting of the money order is that of the appellant Suresh Chandra Bhattacharji who signed the money order as N. Prasad. Suresh Chandra Bhattacharji is a man who is now about 28 years of age. He resides in Cawnpore where he works as Assistant Editor of a newspaper.

On the 25th December 1924, the Bamrauli dacoity took place. We shall refer to this dacoity later grouping it with the other dacoities. On the 2nd January 1925, a money order for Rs. 15 was sent to Kunwar Bahadur on behalf of Banwari Lal from Dasasumedh, a quarter of the Benares city. It purported to be sent by Kashi Nath Bajpeyi of Benares.We find it proved that the handwriting on this money order was that of Rajendra Nath Lahiri. Banarsi Lal has deposed that at the end of 1924 or beginning of 1925, that is to say, directly after the commission of the Bamrauli dacoity, the following incident occurred. We give it in his own words :

When I again met Ram Prasad it was that he came to my house. He gave me some ornaments mainly silver and gold. He told me to melt them, sell the metal and give him the proceeds. He gave them to me as I had a Sarrafi shop. I did so and sold the metal for some Rs. 500. It was the end of 1924 or the beginning of 1925. He did not tell me where he had got the ornaments nor did I ask.

When I next saw Ashfaquallah I told him about this and he said the ornaments came from a dacoity and Rs. 500 cash had also been got. I did not ask for particulars nor did he give any. He did not name any of the perpetrators save Ram Prasad and himself.

As has already been stated " The Revo-lutionary" was circulated between 28th and the 31st January 1925. Kalka Prasad, Sub-Postmaster of the Kamacha Sub-Post Office, Benares city, has proved that on the 21st January 1925 five registered packages were posted from Kamacha : one was addressed to Gopi Nath Shukla, Cawnpore, the second was addressed to Banarsi Lal Kokash, Shahjahanpur, the third was addressed to Parnawesh Chatterji, Jubbulpur, the fourth was addressed to Kunwar Bahadur Srivastava, Rae Bareli, and the fifth was addressed to Kundan Lal, Sitaganj Partabgarh District. He has proved the despatch from his registers. It is in evidence that the receipt for the first package was given by a man called Suraj Bali on behalf of Gopi Nath on the 24th January 1925. That receipt is Ex. P-53. The receipt for the second package was given by Banarsi Lal, the accomplice, on the 23rd January 1925. That receipt is Ex. P.17. The receipt for the third package was given by Parnawesh Chatterji, the appellant, on the 23rd January 1925. That receipt is Ex. P-134. The receipt for the fourth package was given by Kunwar Bahadur, the witness, on the 24th January 1925. That receipt is Ex P-61. There is no evidence to oonnect the fifth package with the conspiracy. To understand the reference to Gopi Nath and Suraj Bali it is necessary to examine the evidence of Gopi Nath. He is also an accomplice. Gopi Nath,

who is otherwise known as Gopi Mohan, is a young man residing in Cawnpore, who makes his living as a private tutor. He has deposed that he was an intimate friend of Ram Dulare, appellant, and of Suresh Chandra

Bhattacharji, appellant, and he worked for Ram Dulare, who, to his knowledge, was a member of the revolutionary party as a recipient of letters in the same manner that Indu Bhushan worked for Ram Prasad. These recipients of letters are known amongst the revolutionaries as "post offices" or "post boxes." Now we have it from an independent witness Suraj Bali that he received this package which was addressed to Gopi Mohan, and Gopi Mohan's evidence indicates very clearly that this package contained copies of "The Revolutionary." Banarsi Lal definitely states that his package contained copies of "The Revolutionary." In respect of Parnawesh Chatterji there is no evidence that his package contained copies of "The Revolutionary." Kunwar Bahadur, however, has deposed that his package contained copies of "The Revolutionary." Banarsi Lal has deposed that he assisted in distributing the copies of "The Revolutionary." There are a large number of witnesses who proved the distribution of "The Revolutionary" in these provinces.

We have here to consider the authorship of "The Revolutionary." The learned Judge, Mr. Hamilton, has at his original page 100 of his judgment, discussed this question and has arrived at the conclusion that Sachindra Nath Sanyal, who has not appealed, was the author of "The Revolutionary." Pandit Jagat Narain has argued before this Court in favour of the conclusion that Sachindra Nath Sanyal was the author of " The Revolutionary." We consider that it is established on the evidence that Sachindra Nath Sanyal was the author of "The Revolutionary." The point is of no importance as against him as he has not appealed, and the point is of practically no importance as against the appellants. On our findings it is established beyond reasonable doubt that "The Revolutionary" was issued by some of the conspirators in furtherance of the purposes of the conspiracy, and as far as the appellants are concerned it is of no importance who was the author. On the 6th February 1925, Rs. 10 were sent by money order to Kunwar Bahadur on behalf of Banwari Lal from Dasasumedh by a person who called himself K. P. Srivastava (Ex. P-95). We find that the handwriting on the money order is that of Rajendra Nath Lahiri. On the 19th February 1925, Rs.15 were sent by money order to Kunwar Bahadur on behalf of Banwari Lal. The money order, Ex. P-94, was sent again from Dasasumedh by a person who called himself K, P. Srivastava. We again find that the handwriting was the handwriting of

Rajendra Nath Lahiri.

On the 25th February Sachindra Nath Sanyal was arrested in Calcutta. He was subsequently convicted by Courts in Bengal. As we have stated already he has not appealed in this case. On the 9th March 1925, the Bichpuri dacoity was committed and on the 24th March 1925, the Dwarkapur dacoity was committed. We shall refer to these dacoities in their places. At the end of June or the beginning of July 1925, Banarsi Lal deposed that he saw Rajendra Nath Lahiri in Ram Prasad's house in Shahjahanpur. At the end of July or the beginning of August 1925,, Manmatha Nath Gupta and six or seven other men arrived according to Banarsi at Shahjahanpur. Ram Prasad told Banarsi to provide then with accommodation. He had not room in his own house but took a house from a certain Kishan Lal. Kishan Lal corroborates this fact. These men are stated by Banarsi Lal to have been Manmatha Nath Gupta, Rajendra Nath Lahiri, Banwari Lal, Makundi Lal and others. This is the first occasion on which reference has been made to Makundi Lal, appellant. Makundi Lal is a man who is now over thirty years of age. He apparently does no work. He resides in Aurayya in the Etawah District. On 3rd August 1925 Makundi Lal sent from Shahjahanpur a money order Ex. P-3-5, to his wife Lachmi Bai who was then living in Benares. Upon the coupon which was to be kept by the addressee he wrote :

I am well. It will take one week more. Your well-wisher Mukundi Lal. Do not be anxious at all.

Shortly before the 9th August 1925, these men left Shahjahanpur with Ram Prasad and Ashfaqullah. On the 9th August 1925, the train dacoity was committed. This will be referred to in another place.

After Mr. Horton was put in charge of the investigation his attention was attracted to Shahjahanpur as he had heard that some of the notes stolen in the train dacoity had been traced there. Suspicion fell on Ram Prasad and it was subsequently stated that Indu Bhushan was suspected of being his "post office." In consequence Mr. Horton got into communication with Khan Sahib Idris Ahmad, Head Master of the Shahjahan-pur High School, in which Indu Bhushan was studying, and arranged with Khan Sahib Idris Ahmad that he should open letters addressed to Indu Bhushan, take copies of the contents, re-close the letters, deliver them to Indu Bhushan and inform the police of what the letters contained. Khan Sahib Idris Ahmad complied with these instructions. Letters were intercepted. The contents of the following have been placed upon the record.

Exhibit P. 138A. This is dated the 4th September 1925. It bore the postmark of Dasasumedh. It is as follows :

My dear friend,

Yours of the first instant. I sent the introduction letters already. I think by this time you have received them. 1 have written to Kali Babu to come at the time. He will come no doubt.

You have not written anything about Lalaji. I am really surprised. There is no able man to represent No. 7 and methinks he is the fittest man and he has got resources in that side too. Ho will be able to have his assistants in a short time in that side. I proposed to him and he is ready. Now he is anxious to go to the assembly. If I do not take him with me he will be wounded, and he has been already wounded by some persons. I am now in a false position. If you do not object I shall take him too with me.

Please reply sharp, I am really anxious. Badri has not yet left—he hopes to in a short time. Bidyarthi (name not intelligible) has come back from his place with an excuse. When I meet you I shall tell you everything. Do not use the name in which you generally write to me and others. It has come into the notice of interested 'persons; change it and use some other name.

Yours
Jawahir Lal.

Ex. P-140 is as follows :

Hardwar.

My dear brother,

Arrived here safely. I am enjoying sound health. If you want to see me, come as sharp as you can, for perhaps I will have to go to take my landed property within a week.

Enquire me freely at Pt. Atmaswarup Ji's Guru Mandal. My B.C. to you and all my friends. The atmosphere of this place is also all right.

Please come very soon.

Yours,
(sd.) Narendra

Ex. P. 141.

Vaishya Orphanage Meerut.
Dated 9th September 1925.

My dear brother,

Everything is all right, All arrangements about the Executive Committee of the Orphanage" are complete. The Updeshak at Lahore has promised to attend the function. You are requested to intimate to your friends to put up various Dharamshalas. Jain Dharamshala is in the way to the railway station. Dharm Das Dharamshala is just near the clock tower and Ganga Rai's Dharamshala is near Queja Ganj.

The place of the function has been after due deliberation fixed at my own place.

Yours,
Supdt. V. O.

Here the heading "Vaishya Orphanage Meerut" was apparently a printed, heading. The word "updeshak" means-lecturer. "Queja Ganj" probably means Qaisarganj, a well known quarter of Meerut.

Ex. B-142 undated, received on l'2th September is as follows :

My dear brother,

Received your kind favour. I am enjoying sound health. Do not be anxious for me so much. Kindly mind well I will not go without taking your permission. But come as soon as possible. Up to this time I have not taken visit of him. (My guru) he will come to-day or tomorrow morning.

After meeting him I will settle whether I have to go to take my property or not. If he will order me to go with him to take my property, my position will be very awkward. Still any how I will detain. But you must come 16th morning here.

(You must start by Dehra Dun mail on 15th night). I will be on station platform on that morning.

Tell my B. C. to my friends.

Yours,
Narendra.

It will be remembered that all these letters were letters intended for Ram Prasad. Mr. Horton further received from a police informer, whose name he preferred not to disclose, Ex. P-482

This is as follows:

Shahjahanpur.
8th September1925

My dear Undel

We are all right. Perhaps you are aware of the fact that the shradha ceremony of our grandfather will be celebrated on the 13th instant (Sunday)

and your presence is quite necessary. Consequently 1 request you to reach No.1 on the fixed time and oblige.

Yours as ever,
Rudra.

P. S.—Kindly start on the 12th instant direct for Delhi and from there you can get the train very easily. You will find me in Orphanage.

This letter is proved to be in the Handwriting of Ram Prasad. At the same time the Calcutta Criminal Investigation Department were intercepting letters. They were intercepting letters that were being despatched to K.C. Guha, Engineer and Contractor, 48 Sankaripara Road, Bhawanipur, Calcutta. They took copies of the contents of these letters and photographed them. Three important letters of this class were Exs. P-210, P-211 and P-212 which are translations of Exs. P-200, P-202 and 204. K, C. Guha gave evidence. He denied all knowledge of any of these letters and said that he had never received them. A relation of his called P.C. Guha, a student in Calcutta, has stated that he used to take these letters which were addressed to K. C. Guha and deliver them to persons whom he could not identify. He said that these two parsons had met him on the road and that he agreed to hand them letters addressed to Mr. K. C. Guha for payment. He received twenty to twenty-five rupees and handed over the letters accordingly. P-210, P-211and P-212 are clearly three of these letters. The letters were in Bengali. It is proved from the photographs of the letters and the envelopes that they are in the handwriting of Rajinder Nath Lahiri. The following are the letters :

Ex. P-210.

To my dear,

It is very wrong of you, brother, that you did not write any letter since you left long time ago. I am very angry with you. However, if you reply to this letter soon, the degree of my anger will lesson a bit.

You did not write anything whether the " Sarees" had been purchased and if you had received the "sample" phials of the medicine, I cannot express how much anxious the mistress of the house has been for the "Sarees." Perhaps you and Kamini Kaka will both be Sorry to learn another news. Aunt's sickness has increased much. She may be somewhat relieved if you can send Kamini Kaka immediately on receipt of this letter with leave for two weeks. In case Kamini Kaka can't come then you yourself come very soon with all the news of your house. If you have already got the "Sarees" then don't forget to bring them, and if not, come without them. Please See, brother, that you don't forget to bring the text books of

my son for which money was already given by me. The progress of the boys school has been daily on the increase yet the boy is going without books. I am all right, how are you all ? My hearty love to you. Immediately on receipt of this letter, you come yourself or send Kamini Kaka, you should bring with you the travelling expenses both for coming and going back.

The condition of the aunt is not good, don't make much delay in coming The end.

Your Nitai Mama
(Your maternal uncle Nitai).
Bhawanipur,
3rd September 1925,
10 a. m.,
Calcutta.

Post mark :,
Dasasumedh,
2nd September,
12-30 p.m.,
Bena,

Ex. P-211.

4th September 1925.

To my dear,

I informed you about aunt's illness about aday or two back. I wrote you to come immediately on receipt of that letter, but now I find that it will do if you come after a few days more. Therefore, Kamini "Kaka" or you must reach here by the 10th of this month. Mind that there be heavy loss in case you don t come. See, brother, that you do not forget to bringwith you the articles, as asked for in the previous letter, viz., the text-books of my son, the"Sarees" of my wife and the "sample phials" of medicine. If you cannot bring the Sarees and sample of medicine then you must reach here by that date with all news of the house. The pecuniary condition of your brother (the writer) is known to you hence don't forget to bring with you travelling expenses for coming and going back as also something extra for pocket expenses. The condition of my daughter is not good. My wife is doing well. Shall be glad to learn your welfare. My namaskar to you. The end.

Yours most obediently
(S.) Nitai,
Bhawanipur
5th September 1925,

Post mark
Dasasumedh;R

4th September 1925,
12:30 P.M.,
Benares.

10 a.m.
Calcutta

Ex. P-212.

Brother,

7th September 1925

I am in receipt of your reply to my first letter. It is a matter of regret that you have not been able to understand the purport of my letter. I have written you another letter if even in that my idea has not been clear it isfor this reason that I sit to write again.

At present it may be managed without the "Sarees." You or "Kaka" should reach here by the 10th instant. There is a meeting. In that the presence of either you or "Kaka" is desirable. In that meeting there will be discussions on many important matters. One of you must come.

To day is 7th you will probably get the letter on the 9th ; if you start that day you will be able to reach on the 10th : it will do if you reach by the express which arrives at Moghulserai in night of the 10th. I am well, to learn your welfare. My love to you. The end.

Yours.
(SI.) Nitaichand.

Postmark :
Dasasumedh,
8th Saptambor 1925
12-30 p. m.
Banares

As a result of observations made on these letters Mr. Horton surmised that a meeting of the provincial central committee of the society would take place on the premises of the Vaishya-Orphnage, Meerut, on the 13th September 1925. He accordingly despatched Sub-Inspector Brahma Singh, an officer attached to the Criminal Investigation Department, to Meerut requesting the Superintendent of Police of Meerut to depute some one (not a police officer) to accompany Sub-Inspector Brahma Singh on his duties in Meerut, to show him his way and to be in a position to corroborate his statements. The Superintendent of Police at Meerut deputed a Jat called Pheru Singh to accompany Sub-Inspector Brahma Singh. The main duties of Sub-Inspector Brahma Singh were to watch the Vaishya orphanage and observe whether there was anything in the nature of a clandestine meeting there, and if so, who were taking part in it. Sub-Inspector Brahma Singh reached Meerut on the 13th September 1925, at 8 a.m. He went to the Assistant Superintendent of Police at Meerut and was given Pheru Singh to accompany him. Pheru Singh took him to the

Vaishya Orphnage. The two men remained outside the main gate of the orphanage and maintained a strict observation on the premises taking care to keep themselves unobserved. They did not always remain together. One or the other occasionally left to get food or for other purposes. Nothing was observed during the day of the 13th September until shortly before sunset, when eight men came out of the residential quarters of Vishnu Saran Dublis, appellant who is the Superintendent of the Orphanage and took the main road to the north. They returned in about an hour-and-a-half. At the time, both Sub-Ingpector Brahma Singh and Pheru Singh were present. Among these eight men were Ram Prasad, Rajendra Nath Lahiri, Damodar Sarup and Vishnu Saran Dublis. After these eight men had re-entered the residential quarters of Vishnu Saran Dublis, Sub-Inspector Brahama Singh and Pheru Singh went away. Next morning Sub-Inspector Brahma Singh arrived first and remained watching outside the gate. About 6 a.m. before Pheru Singh arrived Sub-Inspector Brahma Singh saw Ram Prasad and Rajendra Nath Lahiri come out of the Superintendent's residential quar-ters, stop outside a few moments and re- enter the quarters. Pheru Singh was not present at the time. When Pheru Singh came Sub-Inspector Brahma Singh went away for a short time. While he was away Ram Prasad was seen by Pheru Singh to leave the Superintendent's quarters and go towards the city. He did not return. After Sub-Inspector Brahma Singh had returned, Sub-Inspector Brahma Singh and Pheru Singh saw at about 10 a.m., two other men coming from the direction of the city and going into the Superindent's quarters. One of these men was the appellant Suresh Chandra Bhattacharji. Sub-Inspector Brahma Singh went away again to get some food. While he was away Pheru Singh saw Suresh Chandra Bhattacharji leaving the quarters with the same man. They did not return. Sub-Inspector Brahma Singh left at 4-30 p.m. to go to the railway station. Pheru Singh remained. After Sub-Inspector Brahma Singh had gone at about 5 p.m. five men came out of the house one of whom was Rajendra Nath Lahiri. They did not return. In addition to the evidence of Sub-Inspector Brahma Singh and Pheru Singh there is the evidence of Sheo Charan Singh, a joint Secretary of the Vaishya Orphanage, which proves that there was no meeting of any committees connected with the Orphanage on the 13th or 14th Septembe 1925. Balapat Rai, a traveling ticket Inspector, proves that a man returning from Meerut required an extension ticket and that that man gave his name as Damodar Sarup. Head Constable Iftikhar Uddin, Police Constable Sarju Dayal and Sub-Inspector Hari Kishan have given

evidence which shows that Suresh Chandra Bhattacharji who was at that time under police surveillance went to Meerut on 13th September 1925, arriving there at 7.30 a.m. on the 14th September. Suresh Chandra Bhattacharji admits that he was in Meerut that day.

Mr. Horton considering that the evidence justified the issue of warrants issued warrants for the arrest of certain persons on the 24th September 1925. As a result arrests were made on the 26th September1925, of the following appellants – Govind Charan Kar, Ram Prasad, Manmatha Nath Gupta, Suresh Chandra Bhattacharji, Ram Dulare Trivedi, Raushan Singh and Vishnu Saran Dublis. Other warrants were not executed as the persons named were not found. No warrants were issued for the arrest of Prem Kishan Khanna but the Shahjahanpur police arrested him as a result of what transpired during the search of the house of Ram Prasad.

No previous reference has been made to Govind Charan Kar. It is not proved that he visited either Shahjahanpur, Benares or Cawnpore. He is a Bengali from the Dacca District in Lower Bengal and is a man now of about thirty years age. For some weeks prior to the date of the train dacoity he had been residing in the Rameshwar Hindu Hotel in the Aminabad quarter of Lucknow under the false name of D.N. Chaudhuri. He professed to be a commission agent for the sale of German razors and other goods. Jadu Nath Singh, a student in the Church Mission School, Lucknow, was living in the same hotel. Govind Charan Kar approached this boy, and lent him books containing revolutionary ideas. Jadu Nath Sen became a "post office" for Govind Charan Kar. After the commission of the train dacoity Jadu Nath Sen became frightened. He told his school master Jagannath Prasad certain facts as to what had happened, and as a result there was communication with the authorities and a warrant was issued for the arrest of Govind Charan Kar. He was arrested by Sub-Inspector Ashfaq Hussain at 8 a.m. on the 26th September at the dispensary of a certain Mr. Lahiri close to the Aminuddaula Park. Certain articles were found upon him. One was a fountain pen of a make known as the "Apollo" fountain pen. This pen as will be seen later, is proved to be the property of Rajendra Nath Lahiri and its possession connects Govind Charan Kar with Rajendra Nath Lahiri. After the arrest of Govind Charan Kar he was taken to his room in the Rameshwar Hindu Hotel. Many articles were found in the room, the most important of which was a printed pamphlet, Ex.P-280, which was found in cupboard in the room. This is the pamphlet which Mr. Hamilton calls the Yellow Leaflet. It was printed

on six pages of yellow paper. It bears no mark of any printing press.

The contents are as follows:

The Hindustan Republican Association

Name

The name of the association shall be the Hindustan Republican Association.

Object

The object of the association shall be to establish a Federated Republic of the United States of India by an organized and armed revolution.

The final form of the constitution of the Republic shall be framed and declared by the representatives of the people at the time when they will be in a position to enforce their decisions.

The basic principle of the republic shall be universal suffrage and the abolition of all systems which make any kind of exploitation of man by man possible.

Constitution : Governing Body

The governing body of the association shall be the Central Council composed of the representatives of every province of India. All decisions of the Central Council shall be arrived at by unanimous consent. The Central Council shall be vested with absolute powers.

The principal function of the Central Council shall be to supervise, adjust and co-ordinate the activities in the different provinces of which it shall have full knowledge.

The Central Council shall be in direct charge of the work to be carried on in the countries outside India.

Provincial Organisation

There shall be a committee ordinarily of five (5) men representing the five (5) different departments of the association in every province which shall regulate all the activities of the association in the province.

All decisions of the committee shall be arrived at by unanimous consent.

Departments

Every provincial organization shall have the following departments:

1. Propaganda
2. Collection of men,
3. Collection of funds and terrorism
4. Collection and storage of arms and ammunition
5. Foreign connexion.

1. Propaganda shall be carried on:

   (a) by an open and secret press,

   (b) through private conversations

   (c) through public platforms

   (d) through a system of organized Kathas and

   (e) through magic latern slides

2. Collection of men shall be done by organizers in charge of different districts.

3. Funds shall be collected generally by means of voluntary subscriptions and occasionally by contributions exacted by force. In extreme cases of repressions by agent or agents of a foreign government it shall be the duty of the association to retaliate in whatever form it shall consider suitable.

4. Every effort shall be made to arm every member of the association; but all such arms shall be stored at different centres and be used according to the directions of the provincial committee only.

No arms shall be removed from any place in the district or used without the knowledge and permission of the district organizer or the officer in charge of this department.

5. Foreign connexion. – This department shall carry on its work under the direct orders from the C.C.

District organizer, his duties.

The district organizer shall be in sole charge of the members of his district.

He shall try to start branches of this association in every part of his district. In order to have efficient recruitment he should keep himself in touch with the different public bodies and institutions in his district.

The district organizers shall be subordinate in every way to the provincial committee who shall supervise and direct all their activities.

The district organizers must see that the members are divided into separate groups and the different groups do not know each other.

So far as possible the district organizer of any province must not know the activities of each other, and, if possible, they must also not know each other by person or by name.

No district organizer shall leave his station without previously informing his superior.

Qualifications of a district organizer

1. He must have the tact and the ability to guide and handle men of different temperament.
2. He must have the capacity to grasp political, social and economical problems of the present day with special reference to his Motherland.
3. He must be able to grasp the spirit of the history of India, with special reference to the particular civilization which India has evolved.
4. He must have faith in the mission and the destiny of a free India, which is to bring harmony in the different spheres of human activities both spiritual and material.
5. He must be courageous and self-sacrificing, without which all his brilliant qualities will have no real value.

Provincial Council and Central Council

P.C. and C.C. members must see that every member of this association gets full scope and ample opportunity to develop and use his individual abilities, without which the association will tend to disintegrate.

Programme

All the activities of the association shall be divided into two parts :public and private

Public

1. To start associations in the forms of clubs, libraries, seva summitis and the like.
2. To start labour and peasant organizations. Suitable men must be engaged on behalf of the association to organize and control the laboures in the different factories, the railways and in the coal fields, and instill into their minds that they are not for the revolution but that the revolution is for them. Similarly the Kisans must also be organized.
3. To start weekly paper in every province to propagate the idea of an independent Indian republic.

4. To publish booklets and pamphlets with a view to enlighten the public as to the course of events and the current of thoughts as prevalent in the countries outside India.
5. To utilize and influence the Congress and other public activities as far as possible.

Private

(a) To establish a secret press and through it to publish such literature which cannot easily be published openly.
(b) To circulate such literature.
(c) To establish branches of this association in every part of the country, district by district
(d) To collect funds in as many ways as possible.
(e) To send suitable men to foreign countries where they may get military or scientific training so tht they may become military or scientific experts to take charge of armies and ammunition factories at the time of open rebellion.
(f) To import arms and ammunitions and also to manufacture them, as far as possible, in the country.
(g) To remain in close touch and to co-operate with the Indian revolutionaries outside India.
(h) To get the members of this association enlisted into the present army.
(i) To enlist the sympathy of the public to our cause by occasional retaliatory measures and propaganda and thus create a band of sympathizers.

Membership

All members shall be recruited by organisers in charge of different districts in every province. Every member must be ready to devote his whole time for the association and to risk his life if necessary.

He must obey the commands of the district organiser implicitly. He should develop his own initiative and remember that the success of the association depends much on the resourcefulness the initiative and the sense of duty of its individual members. He must behave in a manner that may not prejudice the cause for which this association stands or may not do any harm directly or indirectly to this organization.

No member of this association shall belong to any other organization without the consent of the district organizer. No member shall leave his station without informing the district organizer about it.

Every member must try to avoid being suspected of revolutionary connexions by the police or public. Every member must remember that his individual behaviour and mistakes might lead to the ruin of the whole organization.

No member shall conceal anything from the district organizer as far as his public life is concerned. Members who will betray shall be punished either with expulsion or death.

The authority of punishment shall rest entirely with the P.C.

When Ram Prasad was arrested in Shahjahanpur there was found in addition to other property a letter in his handwriting, Ex.P-41. This letter was under a pillow in his room and was clearly intended to be despatched to a person who was apparently Rajendra Nath Lahiri. These are the contents of the letter:

25th September 1925

My dear brother,

You know that I am enjoying the Pooja vacation, as my school has been closed. If you receive any news from Kali Babu, please inform direct to my office only, call me to your place from there, I shall start, you need not go into detail, but to call me giving date.

Please send the following books at the following address per registered parcel and under strong and well-protected cover.

1. India in transition, 2. Mukti kon pathe, 3. Biplaber Bali, 4. Biplaber Chatar Samaj, 5. Bandi Jiwan, part 1, Hindi, 6. Hindustan Gulam Kaise Bana and other books in English which you think proper, mostly of communistic ideas. These books will be returned after a month. We require them very urgently. Please send them by return. My school will open on the 29th instant. The address : Jagdish Chandra Johiri, Class X, Government School.

If you intend to write me before 29th please inform directly. How Nawab Sahib is going on, please reply my previous letter in detail.

Yours,
(Sd.) Rudra

When Manmatha Nath's house was searched in Benares there were found in a trunk in his room Exs. P-153 and P-154. Ex.P-153 is a

typewritten extract from The Revolutionary rules. It does not contain the whole of the rules as in ExP-280, but contains that portion of the rules which govern the behaviour of the members. Ex. P-154 is a translation in Hindi of Ex.153 which runs as follows:

EXHIBIT P-153

Rules and Regulations of the Hindustan Republican Association with necessary commentaries and annotations.

Object

The object of the Association shall be to establish a Federated Republic of the States of India by an organized and armed revolution.

The final form of the constitution of the republic shall be framed and declared by the representatives of the people at the time when they will be in a position to enforce their decisions.

The basic principle of the republic shall be universal suffrage and the abolition of all systems which make any kind of exploitation of man by man possible.

Membership : Rules of

All members shall be recruited by D.Os., in charge of different districts.

Every member must be ready to devote his whole time and to risk his life if necessary. He must obey the commands of the D.O. implicitly.

He should develop his own initiative and remember that the success of the Association depends much on the resourcefulness, the initiative and the sense of duty of its individual members.

He must behave in a manner that may (may) not prejudice the cause for which this Association stands or may not do harm directly to this organization.

No member shall belong to any other (secret) organization without the consent of the D.O.

No member shall leave his station without informing the D.O.

Every member must remember that his individual behaviour and mistakes might lead to the ruin of the whole organization. He must try to avoid being suspected of revolutionary connexion by the police or public.

No member shall conceal anything from the D.O. as far as his public

life is concerned.

Member who will betray shall be punished either with expulsion or death (not according to the offence only which he has committed but according to the amount of danger which is apprehended from him).

The authority of punishment shall rest entirely with the provincial council.

When Ram Dulare was arrested there was found in his room a postcard, Ex.P-59, which had been sent to him by Gopi Nath, the approver, while Ram Dulare Trivedi was at Allahabad attending a Rally of boy scouts. This postcard refers to a letter from Niranjan which the writer says may be urgent, but which he cannot send to him. The letter came from Bengal. On the 27th September 1925 Ram Nath Trivedi was arrested and his house was searched. Two copies of the Yellow Leafice were found at his house. Further there was found Ex. P-162. This was in the handwriting of Rajendra Nath Lahiri. It is called the Twelve Points. These are the contents:

1. A list of non-co-operators of the district is to be prepared and their present attitude of mind is to be studied.

2. Total population of the district, its number of villages (including the population of each village, its institutions, if any, number of rich men and their professions), tehsils, thanas, roads (connecting other districts and also roads passing from one direction to the other), rivers, railway lines and stations, railway bridges and river bridges, if any, (a map is to be drawn giving all the above informations). Number of hospitals, their situations.

3. Number of policemen in each thana and the chauki under it, number of armed and unarmed, the amount of arms and ammunitions at their disposal and the places where they are kept. Their names and villages from which they come.

4. If there is army in the district, its number, Indian and European, the amount of arms and ammunition at their disposal and the places where they are kept. The names and villages of the Indian soldiers.

5. The names and houses of C.I.D. officers, informers, and spies, their activities.

6. A list of arms in possession of persons in the district with description.If there are shops of arms and ammunition, their situation. List of arms and ammunitions, their owners, homes and houses.

7. The number of associations, samitis, clubs, sabhas, sanghas, etc. The number of members in each association. Their objects and their organizers.

8. The number of schools and colleges and their number of students, School – High, Middle Primary Municipal, Girl and Night Schools.

9. The number of factories, their description of products, the number of labourers in each factory, labourers in others capitalistic concerns too is to be taken note of.

10. The number of post and telegraph offices, banks, Capitalists. Their names and situations, number of persons employed in it, their names and houses.

11. The number of motor vehicles with description, the number of boats, bullock carts and other vehicles. The names and houses of the owners of the above vehicles.

12. The names of Government Officers and their houses. The posts they hold. The number of Europeans (civil), their names and houses.

After the arrest of Ram Nath Pande a letter arrived from him which was opened by Rai Bahadur J.K. Mukerji, Deputy Superintendent of Police. This letter is Ex.P-43. These are the contents:-

Shahjahanpur,
26th September.

Dear brother,

Rudra's (R.P.) house has been searched and he is arrested this morning. Many papers and documents, lists of name addresses including the address of this letter are found. A letter to you asking for the following books is taken by the police.

1. India in transition, 2. Mukti kon pathe, 3. Biplaber Bali, etc.

Sd. Indu.

Indu Bhushan Mittra admits that this letter is in his handwriting. Indu Bhushan has given evidence explaining how he came to send the letter. He says that he was present at the time of Ram Prasad's arrest and that Ram Prasad had communicated to him unobserved by the police officers that he was to warn the intended recipient of Ex. P-41 and that he sent his letter accordingly.

On the 30th September 1925, Indu Bhushan Mittra was himself arrested. Ex. P-45, a paper in which he had written out himself a prospectus for a society which he wished to form, and a large amount of revolutionary literature were found in his house. Between the receipt of Ex. P-142 and Indu Bhushan's arrest more letters had arrived addressed to him as the Post office of Ram Prasad and these letters had been opened by Khan Saheb Idris

Ahmad and copies taken. The letters in question were Exs. P-143 to P-145. They run as follows:

Exhibit P-143

My dear friend,

The orphan whom I intended to send for carpentary training won't be able to proceed towards the shop owing to his engagement in his house. Either you or I must go to the shop. Kali Babu, the proprietor of the shop, has not sent any letter as yet. As soon as he writes to start, one of us must go. So please decide and reply soon. If you have no leisure I may go as I will have ample time during my long vacation.

We are all right here quite hale and hearty. My love to you.

Yours,

(Sd.) Mathura Prasad

Exhibit P-144,

My dear brother,

I left Moradabad in the morning and got down at Hathras in the evening to see a friend of mine. He has been suffering from malarial fever and has grown very weak. He got very angry on me because I have altogether forsaken him. It means that I did not take any work from him. He pressed me very much and I have promised him to take some work from him in near future. He hopes to get stronger within a few days. I, therefore, request you to let me know 15 days beforehand the fixed date for the tournament and the exact directions in clear language as to lead him to the proper place. I hope you will not forget to send an intimation to me.

Yours brotherly,
(Sd.) Brij Kishore or Brij Kishan

Exhibit P-145

My dear friend,

I received your letter to-night. Yours and Kali Babu's have arrived at the same time. He has written to reach him on 26th morning. I think you will have my letter on 24th and if you can start on the same day by mail you can arrive here the same day, and after taking his address &c. you can start on 25th morning and reach him in time.

Owing to the importance of the business I shall wait for you up to 24th night, if you do not come by that time I shall start on 25th early in the morning. Otherwise we shall lose the profit of the business and hope to

come back auditing the book after 15 to 20 days. In the meantime if you come here please see Lalaji, Nawab, and Quicksilver to gather everything of this place. Quicksilver has some business which you will be able to know when you ask him.

Business centers are very good according to his version and others where we shall have large profit. Mool Ram said that his time of interview has not yet arrived, he expects the time to be at least after 15 to 20 days.

Kartick is the usual time he said. He has taken up an employment. Quicksilver has gone out for a fortnight. If you come here you can put up with Lalaji, a good and suitable place for you.

I have forgotten Badri's old address. I shall ask Nawab if he knows; he will write to you in time.

The things which Vidayrthi brought have been locked up in a gentleman's room who is expected to come by the middle of next month.

After my going if you come to this place bring my shirt and pen from Chaudhuri.

Old Panditji is absent from this place. Rewah gentleman has gone to his father's place and he is expected to inform everything in a short time. If he is ready Lalaji will write to you for the gun, please send it in time so that we may have them. Nawab Sahib is too kind to me now. He is all right. My grandfather is suffering from an attack of influenza you know. I am always at trouble for these old men and women in my family, for these reasons I cannot give you my time, all are all right, quite hale and hearty.

Yours affectionately,

(Sd.) Mathura.

It is to be noted that none of these letters reached Ram Prasad for the following reasons. They were not delivered to Indu Bhushan owing to the closing of the school for the Dasehra holidays until after Ram Prasad had been arrested. Ex. P-143 and Ex. P-145 are shown by general evidence to have been sent by Rajendra Nath Lahiri. As will be seen later Rajendra Nath Lahiri was subsequently arrested in Calcutta in a house which was being used as a bomb factory. Ex. P-143 would show that Rajendra Nath Lahiri had intended to send some men unknown to Calcutta to train in bomb-making. As this man was unable to go he wrote to Ram Prasad that either he or Rajendra Nath should go. As Ram Prasad was not able to answer the letter Rajendra Nath went. Ex.P-145 contains two passages of importance. One of them bring the letter home to Rajendra Nath Lahiri. That is the passage:

After my going if you come to this side please bring my shirt and pen from Chaudhuri.

We have already noted that when Govind Charan Kar (known as D.N. Chaudhuri) was arrested he was found in possession of a fountain pen and there is evidence to which we shall advert later which proves that this fountain pen was the property of Rajendra Nath Lahiri. The other important passage is:

The things which Vidayrthi brought had been locked in a gentleman's room who was expected to come by the middle of the next month.

It would be seen that the "things" in question were two rifles and the handle of an entrenching tool which were found locked up in a room which had been taken by Raj Kumar Sinha. After the arrest of Indu Bhushan Mittra a letter arrived, addressed to him, which was taken by Khan Saheb Idris Ahmad and handed over to the police. This letter is Ex.P-147. It is as follows:

Exhibit P-147

My dear brother,

Arrived here safely. Don't anxious for me. I am enjoying sound health. The progress of this place is daily increasing. I have made connexion with other college students. I will reach to my destination within this week. Sir, you will have to send for me ten rupees more after reaching there. Just now reply by the following address, kindly tell my best compliments to all my friends.

Yours as ever,
(Sd.) Narendra.

Chanda,
1st October 1925

On the back,
My address:-

C/o M.S. Khattri
Cloth Merchant,
Chanda.

This letter has been proved to be in the handwriting of Ram Kishan Khattri, appellant. It further shows that Ram Kishan used to write under the name of Narendra and thereby connects Ram Kishan with Ex. P-140 and Ex. P-142. On the 31st October 1925, Raj Kumar Sinha was arrested

in Cawnpore. At the time of his arrest he scribbled off four letters in Bengali of which the police took possession.

These are they:

Exhibit P.309 A.

Dated 31st October 1925.

My dear Modak,

I am going. When I write this letter our house is being searched. My brother will come to you with this letter. You will make him understand everything about my room. I think it is best to have the room emptied now. I have Rs.10 with Prahlad Das. You will get every information from Kiranda. Please take care, no article is damaged or lost. My brother will stay there for a day or two. My mind is very much disturbed about my room there. I shall remain extremely anxious until I get news about it. Now farewell.

Raj Kumar

Exhibit P-309 B

Dated 31st October 1925

Brother Sushil,

All on a sudden to-day, I have to go away from your midst. If I say I am going to jail I think you will be astonished. But it is a fact, I am going to jail why, even that I do not know. Well don't think your Raju is very anxious on that account. My only anxiety is that at home mother will be worried to some extent. If you can manage, please come Cawnpore and console mother a bit.

(Two lines scratched out)

Please accept my regards,
(Sd.) Raj Kumar

Exhibit P.309 C.

Dated 31st October 1925

To all my friends,

Brothers, all on a sudden to-day, I have to go away from your midst. I do not know when I shall meet you again accept my love, all of you.

Brothers. Do not forget your friend.

Farewell then.

Raj Kumar

Before his arrest in Cawnpore the police had searched a room in Benares which he had taken on rent and left locked up. Their attention had been drawn to this room by the passage in the letter Exhibit P-145 as to the things brought by Vidyarthi. In this room were found a Sherwood rifle and a Winchester rifle and the handle of a military entrenching tool.

Ram Kishan Khattri had been previously arrested in Poona on the 18th October 1925.

The warrant for the arrest of Rajendra Nath was unserved. His whereabouts were unknown. On the 10th November 1925, he was however, arrested in Calcutta, in a house known as Dakshineshwar house. He was arrested at 5-30 a.m. He was in the house between the door and the staircase leading to the roof. The police had gone to search the house for suspects in the train dacoity case. They had not suspected that the house itself was a center of revolutionary activities. When the house was searched there were found in it a live bomb, a cast-iron shell resembling a Mill's grenade, a loaded revolver, a pistol, cartridges, gunpowder, explosive chemicals and there were also found certain masks. Rajendra Nath Lahiri is proved to have been convicted in respect of the discovery of these explosives. The judgments convicting him have been placed upon the record. We consider that we should not use these judgments against him in this case. We are entitled to use and do use the fact that he was arrested in this house in which there were a large number of explosives. The house may fairly be called a bomb factory. But we have not considered the judgments against him as in our opinion their consideration would have taken us into matters unconnected with the case before us.

On the 22nd November 1925, there occurred an explosion in Allahabad. Bhupendra Nath Sanyal, a younger brother of Sachindra Nath Sanyal, was then a student in Allahabad. He has been convicted in this case and has not appealed. The evidence in respect of this explosion is that Bhupendra Nath Sanyal had been inciting some of his friends towards the revolutionary party and that taking some of his friends out for a walk one day he had shown them explosives. He gave some of these explosives to a friend to carry and while they were walking there was an accident and his friend was severely burnt. On the 11th December 1925, Parnawesh Kumar Chatterji was arrested in Jubbulpore. Two important drafts were discovered in his possession. These drafts were Ex. P-166 and Ex.P-167. They are also variations of the revolutionary rules (the Yellow Leaflet). There is an important variation in Ex. P-166 for, whereas Ex. P-280 states that funds should be collected generally by means of voluntary

subscription and occasionally by contributions exacted by force. Ex. P-166 states N.P. funds should be collected generally by means of voluntary subscription and occasionally by robberies, i.e., when subscriptions are not coming or a large sum of money is required instantly which cannot be had by voluntary subscription.

Exhibits P-166 and P-167 are for the most part typewritten. There are some interlineations in handwriting. There was also discovered in the possession of Parnawesh Kumar Chatterji a Corona typewriter. We are satisfied that Ex. P-153, Ex. P-166 and Ex. P-167 were all typewritten from this Corona typewriter. The connexion between Manmatha Nath and Parnawesh Kumar Chatterji is further shown by the fact that Ex. P-171, the postcard in the handwriting of Manmatha Nath Gupta, was found at the time of the search in the possession of Parnawesh Kumar Chatterji.

On the 11th of December 1925, Bhola Nath handed over to police officers a trunk which had been left with him by Banwari Lal. In this trunk were a rifle, a pistol and some cartridges. Banwari Lal was arrested on the 12th December 1925.

Makundi Lal was arrested on the 6th January 1926.

The remaining evidence as to the existence of the general conspiracy is partly in the evidence of the approvers and accomplices who have been already mentioned, partly in the evidence of others and partly in the evidence of corroborating witnesses. We have already referred to the evidence of Kunwar Bahadur. He gives evidence which connects Rajendra Nath Lahiri with Banwari Lal. Jagdish Chandra is an important witness. He is a youth who lives opposite to Ram Prasad's house in Shahjahanpur. Ram Prasad approached him and lent him books of a subversive nature, but the witness had not joined the revolutionary society at the time that Ram Prasad was arrested. Ram Prasad undoubtedly hoped that he would join, as we find that in the letter Ex. P-41 Ram Prasad suggested that letters could be sent to him to the care of this youth. Jagdish Chandra has deposed that he used to see Ashfaqullah and Prem Kishan Khanna entering Ram Prasad's house and that after they had entered the house the doors used to be locked. Ram Charan lived in the house of Banarsi Lal in Shahjahanpur. He deposed to having seen Manmatha Nath Gupta and Ram Kishan Khattri visiting Banarsi Lal. Gauri Shankar is a priest in a temple in Shahjahanpur. He deposed to having seen Manmatha Nath Gupta and Ram Kishan Khattri in the company of Banarsi Lal. Ram Lal is a Shahjahanpur man who was in charge of what is known as a tikasar. This is a rest house. He deposed to Manmatha Nath Gupta having stayed in the

rest house.

In order to connect Govind Charan Kar with the conspiracy Mahesh Narain Sinha was called to corroborate Jadu Nath Sen. He is a shorthand writer who at one time lived in the Rameshwar Hindu Hotel. Govind Charan Kar approached him, but did not succeed in enlisting him as a member of the revolutionary party. He has deposed to having seen Banwari Lal in the company of Govind Charan Kar. Kunwar Bahadur's evidence connecting Rajendra Nath Lahiri with Banwari Lal is corroborated by Dwarka Prasad. The evidence showing the connexion of Bhupendra Nath Sanyal with the conspiracy is mainly that of Ram Chandra Chatterji, Gopi Pada Shastri and Rishi Kesh Bhattacharji.

We now come to the evidence as to the dacoities. The first dacoity was the Bamrauli dacoity which was committed on the 25th December 1924. Bamrauli is a large village about four or five miles from the Zindpura Railway Station on the metre gauge line between Shahjahanpur and Pilibhit. Zindpura is nineteen miles from Shahjahanpur. Bamrauli is a place of sufficient importance to be mentioned in the Gazetteer of the Pilibhit District. It was originally a small town but is not as prosperous or as populated as it was in former days. The population is, however, still more than two thousand and it is not a place so small as to justify the conclusion that every inhabitant of Bamrauli would know every other inhabitant. The evidence as to the commission of the dacoity in Bamrauli is very strong. The principal witness is Baldeo Prasad, a man on whose house the decoity was committed. Other witnesses who may be mentioned as proving the commission of dacoity are Lalta Prasad, who lives next door to Baldeo Prasad, Jagannath, son of Baldeo Prasad, and Kalka Prasad and Kanhai who came to the scene, while the dacoity was being committed. Ram Dayal, the Chaukidar of the village, did not approach the scene closely. He made the first report of the occurrence of the dacoity. This is Exhibit P-388. He had seen the attack from some little distance. His report ends with the words.

Sometimes more light is visible on the roof and in the house if fire is lighted.

The evidence in support of the conclusion that this dacoity was committed by members of the revolutionary conspiracy and in pursuance of the object of the conspiracy is as follows:

It is proved by the evidence of Sub-Inspector Chattar Singh that the following articles were found on the scene of the dacoity.

Seven .300 empty metal cartridge cases bearing the mark on the base

D W M

K K

408

Five empty .450 cartridge cases

Two loaded .450 cartridge intact

One .450 loaded cartridge misfired.

The significance of the discovery is this. Dacoities are not infrequent in the United Provinces. Dacoities in which fire-arms are used form the minority. As the criminals who commit dacoities are usually villagers, and as such villagers cannot usually obtain access to small bore rifled fire-arms and would have great difficulty in obtaining ammunition for small bore rifled fire-arms, it is almost unknown for such fire-arms to be used in the commission of dacoities in this province. Here the discovery of these cartridges and empty cartridge cases on the scene of the dacoity indicate that small bore rifled fire-arms were used and this fact is very significant. What is even more significant is that seven empty cartridge cases were found of the exact make which had been purchased by Ram Prasad on the 7th August 1924 from P.N. Biswas & Co. in Cawnpore. The cartridge of this manufacture were not cartridges which it was easy to procure in the United Provinces or anywhere else in India. They were of special manufacture by a German firm and were not stocked in large quantities.

Certain of the men who committed the dacoity were considered by the witness from their appearance not to be villagers but townsmen. Baldeo Prasad has deposed that some of the dacoits spoke in the language of villagers and some in the language of townsmen and that the townsmen wore Khaki clothes with English shaped shoes and in some cases short knicker bockers and puttees. Lalta Prasad has deposed that he also considered some of the dacoits to be townsmen and Kalka Prasad stated that that was also the result of his observation. He said he knew the difference between villagers and townsmen from their clothes and from their method of talking and the method in which they cut their hair.

The dacoits used lights of an unusual kind at the time they committed the dacoity. Baldeo Prasad deposed that something was turned on Mohan Lal which looked like a candle and gave a great light. Lalta Prasad deposed

that the "candle things" which the dacoits lighted suddenly lighted up without matches. Kalka Prasad deposed that the dacoits had a thing which they lighted and that the best light was the light which they had. Kanhai deposed that the dacoits had lights which gave at times more light and gave at times less. We have already noted the passage in the first report in which the Chaukidar at the very commencement said that sometimes more light is visible on the roof and in the house as if fire is lighted. These villagers were persons who had never been in a position to see an electric torch. The description which they give of the light used by the dacoits is a fairly accurate description of an electric torch. Banarsi deposed that an electric torch was used in the Bichpuri dacoity.

We have already adverted to Banarsi Lal's evidence in which he states that shortly after Christmas 1924 Ram Prasad gave him ornaments of silver and gold to melt. We have in evidence Ram Prasad's accounts with the Shahjahanpur branch of the Allahabad Bank. The copies of the accounts are Exhs. P-191 and P-192. These accounts show that although Ram Prasad had paid nothing in cash into his private account between the 22nd of May 1924, and Christmas 1924, he paid in on the 29th December Rs.100 in cash, on the 2nd January 1925, through Deokinandan Rs.100 in cash, and on the 5th January, 1925, Rs.550 in cash.

Finally we have found in this case that Raushan Singh participated in the commission of this dacoity and we have found in Ashfaqullah's appeal 380 of 1927 (which we are deciding with these appeals), that Ashfaqullah also took part in the commission of this dacoity.

We now come to the evidence in respect of the Bichpuri dacoity which was committed on the 9th March 1925. The evidence as to the commission of this dacoity is again overwhelming. We need only refer to the evidence of Toti Kurmi, the man upon whose house the dacoity was committed, the evidence of his brother Behari, who was present at the time that it was committed, and the evidence of a woman called Rani who was present at the time that it was committed.

The evidence to show that this dacoity was committed by a gang which included some of the conspirators and was committed in pursuance of the objects of the conspiracy is as follows:

Banarsi Lal has deposed that he himself took part in the commission of this dacoity. He deposed that Ram Prasad had told him that a dacoity would have to be committed as funds were required. When Banarsi Lal asked him what had become of the money which had been obtained from

the sale of the melted ornaments Ram Prasad replied that all that had been spent on printing copies of the "Revolutionary." Banarsi Lal continued that he agreed to join and that he with Ram Prasad, Ashfaqullah, Manmatha Nath Gupta, Ram Kishan Khatri and others went by train from Shahjahanpur to the Sherganj Railway Station which is on the metre gauge railway between Shahjahanpur and Pilibhit. Others also accompanied them. They descended at Sherganj Railway Station where they met other persons ten or twelve of whom were local bad characters who had been recruited to assist in the commission of the dacoity. The intention of the gang was originally to commit a dacoity on the house of a man in a village other than Bichpuri. When the gang approached that house it was found that a large party was taking place and that many people were collected. It was thought too dangerous to commit a dacoity on that house, so at the suggestion of one of the bad characters a move was made to Bichpuri village and the house of Toti Kurmi was attacked and robbed. Banarsi Lal's evidence has been corroborated, as will be seen later. We need only add at present to show the connexion of the dacoity with the revolutionary conspiracy that we have found in these appeals that Ram Prasad, Manmatha Nath Gupta and Ram Kishan Khatri participated in the commission of this dacoity and have found in appeal 380 of 1927, that Ashfaqullah also participated in its commission.

We now come to the Dwarkapur dacoity which was committed on the 24th May 1925. The evidence of Sheoratan, the man on whose house this dacoity was committed, corroborated as it is by the evidence of other witnesses, establishes absolutely the fact of its commission. Although none of the appeallants have been convicted of participation in this dacoity, no one having been identified, there is evidence which shows that it was committed in pursuance of the revolutionary conspiracy. It is proved that there were discovered on the scene of the dacoity:

	D K	W	M K
One loaded Mauser cartridge of the mark		403	
One empty cartridge of the same pattern.			
One misfired ·300 cartridge of K.B. make			
One empty cartridge ·300 of G.G. & Co. 763			
One empty cartridge of the same make and			

One empty fired cartridge 765 of the mark D W N
K K
479 A

There was also found the head of a military entrenching tool. The head is of the usual pattern, one side being capable of use as a pick and the other as spade or shovel. The dacoits had used this tool in order to dig up the floors and walls to discover the property. It will be remembered that in the locked room of Raj Kumar Sinha there was found a handle. Mr. Horton tried the handle to see if it would fit this head. It fitted perfectly. We have made the same test and we find that; the handle and the head are made to fit one another." It is true that such military entrenching tools can be procured fairly easily in India since the war, as they were issued in very large numbers during the war, but the fact is nevertheless noticeable.

We now come to the train dacoity which was committed on the 9th August 1925. There is a mass of evidence to prove the commission of this dacoity, and it is established beyond doubt that it was committed. It is only necessary to refer to the evidence of Jagannath Prasad who was a guard on the train. The murder of Ahmad Ali is proved by the evidence of Mirza Ahmad Shah, Saiyid Jan, and police constable Lachhman Ram.

The evidence to show that this dacoity was committed by the members of the conspiracy and in pursuance of the objects of the conspiracy is as follows :

Banwari Lal in his retracted but subsequently repeated confession has deposed plainly as to having taken part in the commission of the dacoity and as to a large number of the other conspirators having taken part in the commission of the dacoity and as to the dacoity having been committed in pursuance of the objects of the revolutionary conspiracy, There is the following other evidence :

Radhe Lal is the manager of the Chhedi Lal dharamshala in the Aminabad quarter of Lucknow. This is a rest house for the use of persons making a temporary stay in Lucknow. Such persons have to sign a visitor's register. Radhe Lal has proved that on the 7th August 1925, a party of six males stayed at the dharamshala. They left on the 8th. One of the members signed in the register under the heading of the names and description of the party, "Din Dayal, son of Chandra Manohar, caste Brahman, of Moolganj, Cawnpore" accompanied by five boys. Object of visit, "for

education." This entry is Ex. P. 476 B. Later on, on the 8th, the same party returned and the same man made a similar entry at Ex. 476 A. They did not return after the 9th We find it proved that both these entries were in the hand writing of Ram Prasad.

Alamnagar Railway Station, which is on the broad guage line of the East Indian Railway, is three miles fron Luck-now Central Railway Station. Kakori Station is five miles further on. Both Alamnagar and Kakori are within easy access of Lucknow city. Public conveyances which can be procured for hire ply between Lucknow and Kakori and Lucknow and Alamnagar. There are metalled roads to both places. On the 8th August-1925, Mendu Lal, who is employed at Alamnagar railway station, and Baeju, who is a porter at the Alamnagar railway station, deposed that three Indians of a respectable class who were wearing European clothes came to the railway station and entered into conversation with the station staff at some time between 7-30 p. m. and 8 p. m. His evidence is corroborated by Sital Prasad, Assistant Station Master. Kallan, an ekka driver, was that evening at Alamnagar station looking for passengers. He deposed that three Indians who were wearing European clothes came to him at the Alamnagar station and asked him to drive them to the Chauk, a central part of Lucknow city. He agreed to drive but asked for a rupee as his fare. They offered him six annas and as they refused to give more he refused to take them. He has identified these three men as Ram Prasad, Banwari Lal and Suresh Chandra Bhattacharji. After Kallan refused to take the men he drove his empty ekka towards Luck-now. On the way he passed police constable Ram Sunder Singh who was patrolling on the road. He told him that he did not like the looks of the three men who had tried to engage his ekka and went on his way. Police Constable Ram Sunder Singh has deposed that later on he saw eight or ten men going down the road. He asked them who they were and where they were going. They said that they were medical students at the King George's Medical College, Lucknow. He identified Banwari Lal as one of those men. It would appear from this that the three men in question had been joined by five others.

There are two villagers Desi and Jodha of Amethia which is close to Kakori. They have given evidence of seeing young Indians in European clothes in the precincts of Amethia the day before the dacoity. They are, however, uncertain as to the date.

We now come to the events of the 9th August 1925. Three boys Bablu, Kalwa, and Sitalwa of Amethia village were grazing cattle about a mile

from the Kakori railway station when they observed ten or twelve Indians collected near a bridge who were evidently endeavouring to keep their presence concealed. They were seen at about 2. p.m. They stayed till about 4 p. m. moving from one place to another and then went away in the direction of Kakori.

Sarju Prasad is the manager of the Kashmiri Hindu Hotel in the Aminabad quarter of Lucknow. This hotel is about two hundred yards distant from the Rameshwar Hindu Hotel and a little over a hundred yards from the Cheddi Lal Dharamshala. On the 10th August a man came to the Kashmiri Hindu Hotel and registered his name as Banarsi Lal Agarwala of Shahjananpur Katia." He stated that he was visiting Lucknow for treatment. He arrived at 8.am.and went away after a day or so. The entry is Ex. P-26. It is clearly proved that Banarsi Lal was not in Lucknow. The entry in question is proved to be in the handwriting of Makundi Lal, appellant.

There is internal evidence that the dacoits were fully acquainted with the fact that money would be found in a safe of a particular make and that they came equipped with tools capable of forcing it. The safe in question is of a standard pattern. These safes are made by the East Indian Railway Company in their own workshop in Lucknow. It weighs something over two Hundred weight, and a certain amount of skill was necessary to heave it from the brakevan on to the permanent way. There were recovered on the spot two pairs of blacksmith's tongs, two cold chisels andone heavy axe complete with a head which weighs over 71bs. and 1 axe-head in a broken shaft which weighs 5lbs. The appearance of the safe shows that the persons who were trying to open it had cut certain rivets and forced other rivets in. They were-not able to remove all the rivets holding the lock. They then prised the metal door open and in so doing forced a portion of it back. The method adopted was clearly by the use of cold chisels, held in the tongs and by the hammering of them in and by prising, using the chisels or the axe edges as wedges. The dacoits may have had other tools apart from those which they left behind. It is noticeable to show the skill with which the crime was committed that this heavy safe was removed from the brake and forced open in about half an hour. The dacoits made clear from the commencement that their intention was to rob State property not to rob private persons. Banwari Lal's confession of course makes the whole matter clear if accepted as we shall show later. It is amply corroborated in material particulars. Banwari Lal in his evidence deposed that after the commission of the train dacoity, he saw

Ashfaquallah who told him that dacoity had been committed by himself and other members of the gang. This is not very important in view of other evidence upon the point. The account given by Banarsi Lal as to the details of the dacoity differs on material points from the account revealed by the evjdence which we have considered. It does not, however, follow in any way either that Ashfaqullah gave Banars Lal a correct account of the manner in which the dacoity was committed or that Banarsi Lal remembered the details accurately.

We now come to the discovery of property on the scene of the dacoity. There were found one loaded brass cartridge and11 empty brass cartridge cases of the D. W. N.

K K

403

pattern. There were found six empty ·300 cartridge cases of mark RMS and two empty ·300 cartridge cases of mark 1914. Finally we have found upon the evidence in these appeals that Ram Prasad, Rajendra Nath Lahiri, Manmatha Nath Gupta, Govind Charan Kar, Makundi Lal, Raj Kumar Sinha and Banwari Lal participated in the commission of this dacoity and we have found in appeal 380 of 1927 that Ashfaqullah also participated in the comission of the dacoity.

We now come to the evidence corroborating the accomplices in respect of the general conspiracy. The first man whose. 'evidence we shall consider is Banarsi Lal. We find his evidence as to the organization of the conspiracy and specially as to the participation of Jogesh Chandra Chatterji in the con-spiracy corroborated strongly by the discovery of Ex. P-198 in the possession of Jogesh Ghandra Chatterji at the time of his arrest. It was through Banarsi Lal that the police obtained information that copies of "The Revolutionary" had been posted from Benares. As we have already seen the evidence of the sub post master Kalka Prasad and the evidence of the entries in the post office registers and other evidence establish the same fact. He deposed that he posted copies of "The Revolutionary" from certain places. Postmarks upon certain covers corroborate this statement. He deposed that he rented a house in which he collected members of the party who had assembled before the train dacoity. He is corroborated here by Kishan Lal, the owner of the house. He first gave the clue to the police that certain members of the party had stayed in a dharamshala near the Amin-ud-doula Park in Aminabad, He did not give the name of that dharamshala. Banwari Lal revealed the name. The dharamshala was the

dharamshala of Chhedi Lal where it is established from the entries in the register that Ram Prasad stayed with five other persons giving his name as Din Dayal. He informed the police authorities that his own name had been entered in the register of the Kashmiri Hotel. It is proved that his name was so entered and that the entry was in the handwriting of Makundi Lal. Until he gave information no one had suspected that the Bamrauli dacoity was the work of revolutionary gang. The fact that he took part in the Bichpuri dacoity is established very strongly by the evidence of Saiyid Ainuddin, the special Magistrate. When he stated that he had taken part in the Bichpuri dacoity Saiyid Ainudddin took him on 10th November 1925 to Bichpuri.. Banarsi Lal guided him from Sherganj to Bichpuri, showed him on the way the house he had stated the dacoits had originally intended to rob, and after the arrival at Bichpuri communicated distinguishing points in the locality which could not possibly have been known had he not taken part in the dacoity. Further he picked out the two rifles which were discovered in the room of Raj Kumar Sinha from amongst several other rifles as the rifles which had been used in the Bichpuri dacoity. He had stated in his evidence that on his return from the Bichpuri dacoity he had met a certain legal practitioner of Shahjahanpur and had travelled with him. Shiam Lal, the legal practitioner in question, has corroborated this. In respect of Indu Bhushan Mittra the main evidence of corroboration is to be found in the contents of the letters which are proved to have passed through his hands as "post'box" but, in addition, his evidence is strongly corroborated by the discovery of the letter Ex. P. 43 which he wrote to Bam Nath as "post box" of Rajendra Nath Lahiri. His evidence is further corroborated by the fact that a large number of revolutionary books were found in his possession and is also corroborated by the evidence of Jagdish Chandar.

The evidence of Kunwar Bahadur is corroborated by the fact that he received certain money orders from members of the revolutionary party on behalf of Banwari Lal. It is further corroborated by the fact that he signed the receipt Ex. P.-61 in respect of the parcel which arrived from Benares. His evidence is also corroborated by the evidence of Bhola Nath.

The evidence of Gopi Nath is corroborated by the fact that letters and one postcard from Gopi Nath to Indu Bhushan's brother were found in the house of Indu. These are Exs. P.- 48, P-49, and P-50. His evidence is also corroborated by the discovery in the possession of Ram Dulare of the postcard Ex. P-59 sent by Gopi Nath to Ram Dulare. It is further

corroborated by the fact that Suraj Bali signed Ex. P. 53, the receipt for the parcel from Cawnpore, signing the receipt on behalf of Gopi Nath.

The evidence of Jadu Nath Sen is corroborated by Jagannath his head master and is further corroborated by the evidence of Sita Ram and Mahesh Narain Sinha.

We now come to the evidence of Banwari Lal. We do not consider that this man-has disclosed all he knows, and in some cases he has clearly, in our opinion, omitted to mention the names of persons, whom he desired to shield, but the statements in his confession are corroborated in regard to the general conspiracy to a satisfactory extent. In respect Jogesh Chandra Chatterji his evidence is corroborated by the discovery of Ex. P.-198 in Jogesh Chandra Cbatterji's possession and also by his identification of Jogesh Chandra Chatterji, a circumstance which would be surprising if he was not telling the truth. . .

From the information given in his confession the following facts werediscovered for the first time. All these facts were subsequently proved by out side evidence. Rajendra Nath Lahiri had sent money to him in the name of Kunwar Bahadur. Banwari Lal lived in Benares under the false name of Tara Singh. This is proved from Ex, P.-480. A Ram Prasad had been at Benares the first week of June when money was paid to Rajendra Nath Lahiri. His confession, in so far as it relates to the commission of the train dacoity, is corroborated by the following facts:

(1) It was on the information that he gave that it was discovered that money order Ex. P.- 92, had been sent by him to Himmat Bahadur.

(2) It was on the information that he gave that it was discovered that Makundi Lal had sent a money order from Shahjahanpur to his wife.

(3) It was on the information which he gave that it was discovered that Ram Prasad had written his name as Din Dayal in the Chhedi Lal dharamshala register.

(4) It was on the information that he gave that it was discovered that the debris of the property stolen in dacoity had been thrown into a well in the Victoria Park, Lucknow. The evidence upon this latter point will be found in the deposition of Inspector Govind Behari, which is corroborated by the evidence of Mr. Horton. Inspector Govind Behari has deposed that a mass of articles which were of no value to the dacoits that had been stolen at the dacoity were found on the information of Banwari Lal in a well in the Victoria Park. Mr.Horton was present at the time of its

discovery.

The evidence of these accomplices has accordingly been corroborated sufficiently to enable it to be considered upon its intrinsic value. We here state our conclusion as to the value of the evidence. Banarsi Lal is in our opinion, a reliable witness. He was to a considerable extent in the secrets of the party though he was not in the inner circle. We do not consider him to be a reputable or respectable person and we are not impressed by his protestations of repentance. We consider that he has made his revelations in order to save himself, and that his frequent assertions that the methods adopted by the conspirators went against his conscience savour of hypocrisy. There is, however, this much to be said in his favour. He did his best to give information which would otherwise not have been obtained. He had nothing to gain by informing the police that the Bamrauli and Bichpuri dacoities were the work of the conspirators. This much is clear that he did not actually take part in the train dacoity. We consider that his action in making the confession was probably influenced by the fact that Makundi Lal had entered his (Banarsi Lal's) name in the register of the Kashmiri Hotel. It is very difficult in a case of this kind to know what the actual feelings of members of the party are to one another, and Banarsi Lal may well have been sore in respect of occurrences which we know nothing about. After a careful consideration of his evidence we accept it. He has not been broken down on any material point in the course of a very long cross-examination. He is undoubtedly a bad man but we consider that we can rely upon his evidence.

Indu Bhushan Mittra was a small boy when he was first drawn into the movement. We are not sure that he is really very important. We consider that his action in warning Rajendra Nath Lahiri after Ram Prasad's arrest was not consistent with a genuine determination to lead a new life. His ruling motive in making the confession was to our mind to save himself, but we see no reason to distrust his evidence. He was also exposed to a lengthy cross-examination which has failed to discredit him.

Kunwar Bahadur is somewhat older than Indu. He is a young man of much the same type. He has not been broken down in cross-examination and we see no reason to distrust his evidence. Gopi Nath is a feeble person who is nearly blind. He was never likely to have been a valuable member of any party. His evidence has not been broken down in cross-examination and we see no reason to distrust him. Jadunath Sen appears to us to be a respectable little boy who has told the truth. Although technically an accomplice he had gone very little into the matter and we consider that

his evidence requires very little corroboration. He has not broken down in cross-examination. We find Banwari Lal's confession in the main reliable. We have now stated the case of the prosecution in respect of the general conspiracy and the dacoities and we now come to the case for the defence.

Not one of the eight learned counsel who addressed the Court argued that the evidence for the prosecution had failed to establish the existence of the general conspiracy. We put the point clearly to every one of them and we asked in particular Mr. H. N. Misra, who had appeared in the Court below, to discuss the prosecution evidence in respect of the general conspiracy. He addressed us on that subject for the greater part of a day, but he criticized very little and did not put forward the suggestion that this evidence had failed to establish the existence of a general conspiracy. All that the learned counsel argued was that their own respective clients were not proved to have taken part in the conspiracy. Criticizm was. directed to the evidence in respect of the meeting at the Vaishya Orphanage in Meerut. It was argued that the evidence of identification was unreliable, and that even if the evidence of identification were reliable, the evidence as a whole was insufficient to establish that a meeting of a revolutionary nature had taken place at Meerut.

Mr. Chatterji and Dr. J. N Misra argued on behalf of Raushan Singh that there was not sufficient reliable evidence to justify the conclusion that the Bamrauli dacoity was the work of the conspirators. They laid great stress upon the fact that certain persons were tried after a police inquiry by the then Sessions Judge of Pilibhit (an officer who has since retired) on a charge of complicity in the dacoity and that they had been acquitted. They endeavoured to establish from evidence given in that case that the suggestion that some of the dacoits in that dacoity were townsmen and that an electric torch had been used were subsequent additions which had found no place in the original story. They also argued that the failure to prosecute Raushan Singh in the first instance although his name had been mentioned (as one of the dacoits) showed that the dacoity was not the work of revolutionaries. It was not, however, argued that the Bichpuri, Dwarkapur and the train dacoities were not the work of revolutionaries. No attempt was made to meet the evidence for the prosecution in respect of those dacoities.

Our conclusions on the main evidence as to the existence of a general conspiracy are these :

We find that it is proved overwhelmingly that a conspiracy came into

being in the United provinces in July 1924 to deprive the King-Emperor of the sovereignty of British India, and that the persons who were controlling the conspiracy as the inner circle further conspired to commit dacoities in which fire-arms were intended to be used, in order to obtain funds with which to purchase arms and ammunition and to carry on revolutionary propaganda. We find that the evidence clearly shows that those persons contemplated that fire-arms should be used in order to enable the dacoities to be committed effectively and with impunity, that they foresaw and realized that murder was a probable and likely consequence of those dacoities and that thus it is established that there was within the conspiracy to deprive the King-Emperor of the soverignty of British India a conspiracy to commit dacoities with murder.

In respect of the meeting at the Vaishya Orphanage at Meerut we find, after having heard the arguments of learned counsel and considered the evidence for the defence, which has been produced upon the point, that certain members of the revolutionary party, amongst whom were Ram Prasad, Rajendra Nath Lahiri and Suresh Chandra Bhattcharji, collected at Meerut in the residential quarters of Vishnu Saran Dublish in the Meerut Orphanage and there held a secret meeting taking precautions to conceal their presence. We believe the evidence of Sub-Inspector Brahma Singh and Pheru Singh whom we find to be reliable witnesses. Their identifications were in each instance supported by their picking out the men identified from a crowd in the jail and repeating the identification in Court. The only construction which we can place upon the documentary evidence on this point is that the meeting was a pre-arranged meeting of the revolutionary society. We find that an attempt was made to mislead by stating that on the 13th September 1925 the date of the meeting, there was to be an innocent meeting of a committee of the Orphanage, whereas no such meeting was in contemplation and whereas no such meeting was held. We interpret the reference in the intercepted letters sent by Rajendra Nath Lahiri to the unknown person in Calcutta as a request to that person to join this meeting. The letter, Ex.P- 482, which was in the handwriting of Ram Prasad, requesting recipient to attend a meeting at the Orphanage on the 13th September 1925 of the shradh ceremony of their grandfather was a summons to this meeting in Meerut. The sharadh ceremony amongst Hindus is a ceremony held usually annually in which surviving male relations offer oblations to the memory of deceased male ancestors. There could have been no such ceremony in which Ram Prasad and the unknown recipient of the letter could have shared and the use of the word Orphanage

is very significant. We shall refer later to the incident of the Meerut meeting in connexion with those of the appellants who we find participated in it.

There can be no doubt as to the fact that the Bamrauli, Bichpuri, Dwarkapur and train dacoities were committed. The evidence that the Bichpuri and train dacoities were committed in pursuance of the objects of the revolutionary conspiracy is very strong. We are satisfied that the Dwarkapur dacoity was also committed in pursuance of the object of conspiracy. That conclusion does not materially affect any of the appellants as none of them have been proved to have taken part in the commission of the dacoity , and as far as we are concerned in respect to the conclusion as to conspiracy to commit dacoities with murder, it would be sufficient to establish, as has been established, that the Bichpuri and train dacoities were committed in pursuance of the conspiracy.

We come finally to the decision as to whether the Bamrauli dacoity was committed in pursuance of the objects of the conspiracy.This point is of importance in connextion with the appeal of Raushan Singh, and will be considered again when we are dealing with that appeal. Here it is sufficient to note generally the arguments of Raushan Singh's learned counsel. The fact that certain persons other than the appellants before us were tried by Sessions Judge of Pilibhit for complicity in this dacoity and acquitted is absolutely irrelevant and immaterial. We do not propose to examine that point as there is no force in it. It is clear from the evidence that has been rightly placed before us that at the time of trial in Pilibhit the witnesses to the dacoity did not state explicitly that any of the dacoits were townsmen and they did not make any reference to facts which would have indicated to the learned Sessions Judge trying that case that an electric torch had been used. But these omissions in no way support the suggestion that the statements, that townsmen took part in the dacoity, and that something of the nature of an electric torch was used by the dacoits, are untrue additions to the original story. The explanation of the omissions is a simple explanation which is not creditable to the intelligence of those members of the Pilibbit District police who took part in the original investigation. The original investigation was perfunctory and unintelligent. The first point which we have to note is that in that investigation no officer considered the circumstance that no less than seven empty ·300 brass cartridge cases, five empty ·450 cartridge cases and three loaded ·450 cartridges were discovered on the scene of the dacoity was in any way significant. The omission to observe this point says very little for the

intelligence of the officers concerned.

The discovery of these articles should have been sufficient to show a police officer of reasonable intelligence that the Bamrauli dacoity was not an ordinary dacoity. It should have shown him that amongst the dacoits were persons who were in possession of arms such as seldom or never find their way into the hands of the ordinary miscreant who commits crimes of this nature. It should have shown him something further.

Even if rifled firearms of ·300 ·450 bore had come into the hands of ordinary dacoits the provision of ammunition for such weapons would be very difficult. Some ammunition might be stolen, but ammunition of this kind rapidly deteriorates, and after a certain number of years becomes unserviceable. The difficulties in the way of ordinary criminals procuring ammunition of this class are almost insuperable, so the conclusion to have been adopted by a policeman of intelligence from the discovery of these articles was that the dacoits were not ordinary criminals, but men of a superior class; in other words, that they were probably, as a villager would call them, "townsmen." But not the slightest attempt was made apparently to elicit from the persons who were present at the commission of the dacoity who the dacoits were.

Again, although in the first report the chaukidar who had seen the commission of the dacoity from some little distance had remarked on the peculiarity of the light used by the dacoits which was sometimes dim and sometimes bright, the police responsible for the inquiry was satisfied in leaving these villagers to describe the lights used by the dacoits as "wax candles."A very slight use of intelligence was necessary to show that wax candles would not be usually a satisfactory illuminant for the use of the dacoits in the commission of a dacoity. A villager who had never seen an electric torch and whose knowledge of artificial light used in a village (apart from the lights which he might have seen at railway stations and in towns) was confined to what he had seen would divide artificial lights into oil lights, torches and wax candles, and what was not an oil lamp or a torch would be considered a "wax candle." Although in the investigation not a single piece of wax candle was discovered and no burnt matches were found, there was no attempt made in the examination of these village witnesses in the trial in Pilibhit to ask them as to why they believed the dacoits to have been using wax candles. We see no reason to suspect .the. statements made by these witnesses after an intelligent investigation had been made as to the speech, the costume and the lights used by the dacoits.

In order to accept the conclusion pressed before us by Mr. Chatterji

and Dr.J. N. Misra it would be necessary to find that there has been a dishonest attempt to add evidence for the purpose of this case, and, in as much as we are satisfied that the investigation of Mr. Horton and the subordinate police officers in this case has been scrupulously honest, we reject the argument. The failure to proceed against Raushan Singh originally in connexion with the Bamrauli dacoity will be examined by us later when we come to the decision of his appeal. It is sufficient to say here that our finding is that the failure to proceed against Raushan Singh originally, while it tells greatly against the Pilibhit police officers who investigated the case, does not tell in any way in favour of Raushan Singh. We find upon the Evidence that the Bamrauli dacoity was committed in furtherance of the objects of the revolutionary party.

We now proceed to decide the appeals of the fifteen appellants separately.

Ram Prasad Bismil

As we have already stated, this appellant is a full-grown man, who up to the time of his arrest, was in business in Shahjahanpur. The evidence against him in respect of the charges of conspiracy is contained largely in the evidence of Banarsi Lal and Indu Bhushan Mittra. If this evidence is sufficiently corroborated against him and believed, it shows not only that he was one of the conspirators, but that he was the provincial organizer for the province and the head of the Shahjahanpur branch. It is unnecessary to discuss this evidence. It has been discussed already and it is a question only whether it should or should not be accepted against him. The first piece of evidence corroborating the evidence of these two accomplices is to be found in the fact (which Ram Prasad himself admits) that he purchased the fifty cartridges, to which reference has been made, on the 7th August 1924, at Cawnpore from the firm of P. N. Biswas & Co,, using, in order to obtain the cartridges, the arms license of Prem Kishan Khanna and signing "Prem Kishan" in the register as the recipient of the cartridges. The corroboration further consists in the evidence that seven empty cartridge cases of this pattern were found on the scene of the Bamrauli dacoity ; one empty cartridge case and one full cartridge case of this pattern were found on the scene of the Dwarkapur dacoity and eleven empty cartridge cases and one loaded cartridge of this pattern were found on the scene of the train dacoity. He was acquitted on the charge of participation in.the Bamrauli dacoity, but on the evidence of Banarsi Lal, a short time after the commission of this dacoity, Ram Prasad gave

Banarsi Lal ornaments to melt, and the evidence of Banarsi Lal in this respect is corroborated by the fact that Ex P. 191, Ram Prasad's private account with the Allahabad Bank at Shahjahanpur, shows that, shortly after the commission of the dacoity, he paid in a total amount of Rs. 750 in cash into his account.

The evidence that he was instrumental in circulating copies of "The Revolutionary" which is given against him by Banarsi Lal is not corroborated especialy against him, but he is connected with "The Revolutionary" by the evidence of Indu Bhushan Mittra and the recognition by Indu Bhushan Mittra of "The Revolutionary" corroborates this evidence. The oorroboratton of the evidence of Indu Bhushan Mittra against him is in the main found in the facts that Indu Bhushan Mittra has been proved by evidence, which we believe, to have been acting as "post office" for some one, and that letters were received by Indu Bhushan Mittra, the contents of which have bean proved and the internal evidence of which goes to show that they, were intended for Ram Prasad, as Indu Bhushan states they were. The contents of these letters corroborate Banarsi Lal's statement also. We have already detailed the contents of these letters .Ex. P. 138-A had apparently come from Rajendra Nath Lahiri. It was posted at Dasasumedh. a local post office in Banares (Rajendra Nath Lahiri lives in Dasasumedh). It contains the passage.

You have not written about Lalaji. I am really surprised. There is no able man to represent No.7 and me thinks he is the fittest man and he has got resources in that side too. He will be able to have his assistants in a short time in that side. I proposed to him and he is ready. Now he is anxious to go to the assembly. If I do not take him with me he will be wounded, and he has been already wounded by some parsons, I am now in a false position. If you do not, object I shall take him too with me.

Whether this letter was or was not written by Rajendra Nath Lahiri, its contents clearly indicate that it was written by some conspirator. It is suggested that "Lalaji" was Damodar Sarup. He may or may not have been Damodar Sarup, but "Lalaji" was clearly Conspirator. "The assembly" in our opinion can, only mean the meeting at Vaishya Orphanage at Meerut. Ex. P.-140 is a letter from a person who was engaged in mysterious activities in Hard-war who writes under the name of Narendra." A letter has been subsequently discovered in the handwriting of Ram Kishan Khattri in which he signs his name Narendra. It is impossible in our opinion to form a conclusion other than that the "Narendra" of Ex. P-140 was a conspirator who was in Hardwar. Ex. P-141 is a letter which

purports to come from the Vaishya Orphanage, Meerut, and which was signed by some one who called himself the Superintendent (Supt). It refers to a meeting of the executive committee of the Orphanage when no such meeting was proposed and no such meeting ever took place, and requested the recipient to see that his friends put up in various Dharamsalas, the place of the function having been after due deliberation fixed at the writer's own place. Ex. P-142 is another letter "from Narendra" which apparently arranging a meeting on the 16th September 1925. Then there is Ex. P-143 to which we have already referred with the peculiar reference to the orphan who was intended for carpentry training — a reference which we understand to mean that some person was required to go to Calcutta to study bomb manufacture. That person must either be the writer (who in our opinion was Rajendra Nath Lahiri) or Ram Prasad himself. The letter Ex. P-144 is also a letter written by a conspirator. It contains the passage:

I hope to send two or three players atleast one of "whom " is an expert man.

The reference can only be here to dacoits or manufacturers of bombs. Ex.P-145, the letter from "Mathura" who on internal evidence of the letter was Rajendra Nath Lahiri, is almost conclusive as to association in a revolutionary conspiracy between the writer and the recipient, and finally in this connexion there is a letter, Ex. P-147, received after Indu Bhushan Mittra's arrest which is proved to have been written by Ram Kishan Khattri. There is further the letter Ex.P-41 which, as we shall show afterwards, is proved to be in Ram Prasad's own handwriting, which was found under the pillow at the time of his arrest. This letter was clearly intended for Rajendra Nath Lahiri being sent to Ram Nath Pande as his " post office. " It commences :

You know that I am enjoying the Puja vacation as my school has been closed.

Ram Prasad had no connexion with any school. He was by trade the manager of a shop which sold silk. It continues:

If you receive any news from Kali Babu, please inform direct to my office only ; call me to your place from there I shall start.

"Kali babu" is clearly a revolutionary. The letter continues asking for the despatch of certain specified books some of which were of a revolutionary nature and other books in English which you think proper, mostly of communistic ideas.

It then suggested the name of Jagdish Chandra, the boy who lived opposite to him as a new "post office." There was also found in his possession a slip of paper written in Hindi, Ex. P-259, which contains the names, amongst others of Ashfaqullah, Banarsi Lal and Prem Kishan. There was also found in his possession, Ex. P-260, a memorandum of accounts.

Before we come to the evidence against him contained in Ex. P-482 we note our reasons why we are satisfied that certain documents are in his handwriting. We have considered the evidence of Mr. Stott in this connexion but in this particular instance there was no necessity to obtain the assistance of a handwriting expert for the similarities are so clear that we have been able to arrive at an independent conclusion without the slightest difficulty. The prosecution had considerable trouble in discovering any piece of handwriting which could be proved unmistakably as the handwriting of Ram Prasad. After his arrest he made every effort to avoid providing specimens of his hand writing. Although while under trial he submitted a very large number of written applications, he was always careful to have them written by a person other than himself, or to write them himself in Urdu, his Urdu handwriting not being in question. He gave it as his reason for this abstention that as, he had, hurt his wrist in wrestling, he , had been unable for many years to write English without great difficulty. The value of the statement as to his having a permanently injured wrist can best be judged by the fact that after his conviction he submitted to this Court written arguments in his defence in English in his own handwriting which printed into seventy-six pages. But while endeavouring to avoid leaving any evidence of his handwriting on the record he made one slip. While he was in custody in the Shahjahanpur jail shortly after his arrest he sent a petition which has been proved to be in his own handwriting dated 6th September 1925, to the Sub-Divisional Officer, Shahjahanpur, complaining that the local jail authorities had put him in solitary confinement and were describing him as dangerous upon his history ticket. This is Ex. P-512. We have found on the evidence that this clearly was in his handwriting, and it is by comparison of the handwriting here with the handwriting in the questioned documents that we have arrived at the conclusion that Exs. P-41 and P-482 were also in his handwriting. Ex. P-482 is the letter which was handed to Mr. Horton by an undisclosed informant. We have referred to it already. It was written by Ram Prasad to some one whom he calls Undel requesting him to be present at the shradh ceremony of their grandfather at the Orphanage on

the 13th September 1925.

Exhibit P-601 contains some correspondence between Ram Prasad Bismil and the Allahabad Bank branch at Benares. He sent them a letter from Benares city on the 2nd June 1925, which emanated from house No. 78 Dasasumedh, requesting them to direct their Shahjahanpur branch to remit Rs. 60 to the Benares branch and credit it to his account. The bank complied and the Rs. 60 were paid at Benares. These facts are proved clearly by other evidence. The significance is in the evidence which proves that Rajandra Nath Lahiri resided at 78 Dasasumedh. The evidence. which connects Ram Prasad with the Meerut meeting is his clear identification by Sub-Inspector Brahma Singh and Pheru Singh combined with the evidence afforded by the documents to which we have already referred. There is further general evidence of corroboration against Ram Prasad in the evidence of Jagdish Chandra.

We now come to the Bichpuri and the train dacoities in respect of which, he has been convicted. In regard to the Bichpuri dacoity the evidence of Banarsi Lal is conclusive to prove Ram Prasad's complicity in the dacoity, if it is properly corroborated and believed. We need go no further in respect of the corroboration than the evidence of Behari, the victim of the dacoity and Lila who was grazing cattle in the neighbourhood of Bichpuri on the night of the dacoity and saw certain men collected there. Behari picked Ram Prasad out of a crowd in jail identification proceedings as one of the men who took part in the dacoity. He identified him again in Court. We have already detailed the circumstances in which these jail indentifications were held, and we need not repeat our remarks upon them here or elsewhere. Lila similarly picked Ram Prased out of a crowd in the jail but was unable to repeat the identification in Court.

In respect of the train dacoity there is first the evidence of Banarsi Lal which proves the collection of some of the dacoits in Shahjahanpur, and the arrangements made by Ram Prasad for their entertainment. Banarsi Lal took a house for the use of the conspirators. He is corroborated on this point by Kishan Lal.

We have next the evidence of Radhe Lal who proves that a certain person with five others stayed at the Chhedi Dharmsala in Lucknow from the 7th to 8th August 1925, and again from 8th to the 9th August 1925 and that the head of the party signed his name in the register at places, Exs. 476-B and 476-A as Din Dayal of Cawnpore. It proved to our satisfaction that handwriting of these two entries is the handwriting of Ram Prasad. Kallan, the ekka driver, picked Ram Prasad of a crowd in the jail as one

of the men whom he had seen close to the Kakori station on the 8th August 1925, the day before the dacoity. He repeated identification in Court. Badlu, one of the boys who were grazing cattle in Amethia on the day of the dacoity, identified Ram Prasad in the jail as one of the men whom he had seen in the neighbourhood in suspicious circumstances. He was unable to repeat this identification in Court

In addition there is against Ram Prasad the important evidence of a man called Abdul Wadud. We have not referred before to Abdul Wadud. He is a vendor of aerated waters and ice who travels on certain trains selling his goods. At the time of the train dacoity he was in No. 8 Down and when the train came to a standstill he got out of his compartment to see what had happened. He was in a good position to identify persons who were present amongthe dacoits, as there was light in the sky at the time, and as a man who is accus-tomed to travelling by railway trains, and whose work would make him some-what more observant as to the features of the people he sees than many others, he was able to give evidence of identification somewhat more extensively than that given by other people. When we say that his work would make him more observant, we mean this : A seller of aerated waters and ice on a railway train is continually going from one carriage to another sometimes in a very bad light, leaving glasses, coming back to collect them and for payment and seeing his customers from time to time. such a man would in the nature of his work be likely to become observant. He has identified altogether eight persons, having taken part in the dacoity. He made four identifications, which were not accepted, three of men who clearly had not taken part in the dacoity, and one of a man who, although he had not taken part in the dacoity, had a strong facial resemblance to Rajendra Nath Lahiri. He identified Ram Prasad as one of the dacoits. He picked him out of a crowd in the jail and repeated his identification in Court.

In addition there is against Ram Prasad the fact that Banwari Lal has implicated him as one of the ring leaders in the dacoity. There is also the evidence of Sri Ram Pande, the sub-agent of the Allahabad Bank at Shahjahanpur, to the effect that, shortly after the train dacoity Ram Prasad was in possession of funds.This is the evidence against Ram Prasad.We now come to his defence. His defence before Mr. Hamilton, when it was not confined to accusations against the integrity of the Special Sessions Judge, the prosecuting counsel and the police, consisted mainly in a denial of nearly everything. Before the committing Magistrate he refused to make any statement. He admitted that he had purchased the cartridges in

Cawnpore on behalf of Prem Kishan. He said he purchased them to oblige Prem Kishan. That was all the explanation he offered on that point. He attacked Banarsi Lal upon the following points. He said that Banarsi Lal was Secretary of the Congress Committee and that he was Auditor, and that in 1921 Banarsi Lal had taken certain English clothes belonging to Thakur Indra Bikram Singh to burn, as a mark of disapproval of the use of cloth other than Indian-made cloth, and that Banarsi Lal had misappropriated certain of these clothes and used them for his own purposes. He further stated that Banarsi Lal had gone to the Ahmedabad Congress and there stolen a bucket and a lantern. He stated that Banarsi Lal had committed other acts of dishonesty and that he was also a drunkard. He said that he had made these accusations to the members of the Congress party with the result that Banarsi Lal had lost his reputation. He went on to say that Banarsi Lal had formed a gang of dacoits, and that he was committing dacoities on his own account. He said that for this reason he and Banarsi Lal were enemies. In respect of Indu Bhushan Mittra the case that he put forward was that Indu Bhushan Mittra's father was a Headmaster of a Government school and a Government spy. In respect of Banwari Lal he had only to say that Banwari Lal was acting under the orders of the police.

He made a violent attack upon the Criminal Investigation Department, and said that the reason why he had been implicated was because he had been writing to the newspapers suggesting that the Criminal Investigation Department were fabricating false cases throughout the province, in order to prevent a reduction in their personnel. His case was that they were afraid that their number was going to be reduced, so they were bringing all the false cases that they could think of. He said that the Criminal Investigation Department, in revenge for his attacks upon them, has implicated, him in a false case and names as his arch enemy, a leading-gentleman in the Department, Khan Bahadur Tasadduq Husain. He stated that Mr. Horton was honest as far as he went, but that he was too stupid to be able to get at the truth. He concluded that he had no hopes of a fair trial in the Court of Mr. Hamilton. In respect of his handwriting his case was that he had never written the petition which was sent from the Shahjahanpur jail. He stated that the Jailor had substituted for the petition which he had written, a petition which was forged by a person unknown.

When he appealed from jail to this Court he first, as we have said already, requested that Pt. Gobind Ballabh Pant should be appointed to appear for him, or that in the alternative he should be allowed to argue

his appeal himself. On the 13th May 1927 he applied to this Court for various copies. On the 14th June 1927 he sent an application stating that he had received the copies. On the 28th June 1927 he applied to this Court from the District Jail, Gorakhpur, requesting that he should be transferred to Lucknow Jail. On the 7th July 1927 he sent an application requesting permission to argue his appeal in person. On the 18th July 1927 he applied to this Court, objecting to the appointment of Mr. L. S. Misra as his counsel and demanding that he should be allowed to argue his appeal in person. A Bench of this Court refused his application to be permitted to argue his appeal in person, and informed him that he would be represented by Mr. L. S. Misra : [vide A. I. R. 1927 Oudh 312-Ed.] On the 20th July 1927 he submitted another application adding to it arguments which 'printed into seventy-six pages. On 21st July 1927 he applied again to this Court stating that he had no complaints against the good faith and honesty of Mr. L. S. Misra, but that the time for preparation of the case was so short that no lawyer could go through the record of the case during that period. There was no justification for the latter remark. On 25th July 1927 he put in an application to the effect that he now accepted Mr. L. S. Misra, as his advocate and left the conduct of the appeal in his hands. Ha had previously instructed Mr. L.S. Misra. On 6th August 1927 he submitted a further petition in which, while not withdrawing his defence in any way, he quoted extracts from certain books on eugenics and other subjects with the object of showing that in no circumstances should he be sentenced to capital punishment. He uses these words in this application :

Therefore your humble petitioner prays..for mercy only on the ground that he is repentant This sense of repentance he had shown on 5th June 1927, by submitting a memorial to His Excellency the Governor in Council for the United Provinces of Agra. and Oudh. The copy of this memorial he might have sent to the Hon'ble Court but he is afraid that if it is submitted before a Court of justice it will become public document which will not be proper at this stage.

He has since sent other petitions, but they do not add materially to the case. Before the learned Special Sessions Judge he withdrew all his witnesses. We are unable to reconcile the various contradictions, inaccuracies, and irrelevancies which permeate his private defence and ignoring his conduct and substituting for his own arguments the arguments that his learned counsel Mr. L.S. Misra has advanced on his behalf we proceed to decide the appeal. Mr. L. S. Misra devoted a considerable

period to a close criticizm of the evidence against his client. He admitted that he was unable to justify the personal attack upon Banarsi Lal by anything which had been elicited in cross-examination of the witnesses. It is obvious that, if Banarasi Lal had been guilty of the conduct of which Ram Prasad alleged that he was guilty, there would have been no difficulty in obtaining evidence to prove such conduct. Ram Prasad has made an additional allegation, that, he has been implicated in this case because, as a zealous supporter of the Hindu religion he has incurred the enmity of Mahomedans. There is no foundation for the allegation that he has incurred the enmity of Mahomedans, but it is clear upon his own showing that he is a man who was largely connected with Indian politics and that his sympathies were on the side, of the Hindus.

Such being the case, he would have had no difficulty, if it were true, in proving that Banarsi Lal had been a traitor to his own side. He made no attempt, however, to prove this. After stating at first that he desired to call a large number of witnesses, he eventually withdrew them and he has no grievance, as to the fact that his witnesses were not produced, for by his own act they were not produced. His personal attacks upon Indu Bhushan Mittra, Banwari Lal and others are equally unsupported, but his learned counsel has criticized, wherever he could criticize, and has pointed out some incidents which, he urged, tell in his client's favour. Upon the point of handwriting he has been unable to say anything. The appellant's suggestion that the petition, Ex. P-512, was forged at the instance of the police and prosecution is ludicrously untrue, upon a comparison of the handwriting his learned counsel has been unable to say anything.

He has pointed out to us that according to Banarsi Lal's evidence Banarsi Lal was given copies of The Revolutionary very early on the morning of the 26th January and he has referred us to certain police reports (Ex. D-23 and 'others) which would go to show that Ram Prasad left Shahjahanpur that morning for Lucknow by a train that left at 5 a.m. Ex. D-23 was the report of a certain police constable Abbas Khan, Ram Prasad being at that time under police surveilance, and Abbas Khan being the constable who was entrusted with his surveillance. Police constable Abbas Khan admits having made this report. He made it at 5 p. m. but it is clear that no one had seen Ram Prasad leaving shahjahanpur by the 5 a. m. train and Abbas Khan, in making the report was evidently relying upon information which he had received from somebody else. There is nothing to show that the information was correct, and we do not consider that Banarsi Lal's evidence has been in any way affected on this argument. In

respect of his identifications he has endeavoured to make out that those identifications were obtained unfairly. He has completely failed to establish this point. His learned counsel made only a faint-hearted attempt to show that Ram Prasad had not taken part in the general conspiracy. He directed the greater part of his arguments to endeavouring to show that he had not taken part in the Bichpuri dacoity or the train dacoity.

We are satisfied that the identifications were honest identifications, and upon these identifications and the evidence of handwriting, we have no difficulty in arriving at conclusions on these appeals. Banarsi Lal undoubtedly took part in the Bichpuri dacoity. His evidence that Ram Prasad was a ring leader in this dacoity might go far very little, if it stood alone. But it does not stand alone. The fact that Behari has identified Ram Prasad as taking part in the dacoity would alone be sufficient corroboration of Banarsi Lal's evidence upon the point. But in addition to Behari's evidence, there is the evidence of Lila and we are satisfied that Ram Prasad took part in the Bichpuri dacoity. The evidence against him in respect of the train dacoity is even stronger. He has been unable to explain away the fact that the entries in the register of the Chhedi Lal Dharamsala are in his own handwriting. This fact alone shows that Ram Prasad was in Lucknow on the 8th and 9th August 1925. He has been unable to explain away his identification by Kallan, Abdul Wadud and Badlu. Those identifications alone are sufficient to show that he took part in the train dacoity. Upon the above evidence we find that he was rightly convicted upon all the charges on which he has been convicted by the learned Special Session Judge.

Rajendra Nath Lahiri

As we have already stated this appellant is a full-grown man who, in 1924-25 was working in Benares in a dispensary which was conducted by his brothers and was also reading as a student in the Hindu College. The main evidence to connect him with, the general conspiracy is that of Banarsi Lal, Indu Bhushan Mittra and Kunwar Bahadur. He is further implicated in Banwari Lal's confession. He was an associate of Banwari Lal. He had relations with Ram Prasad who visited him at Benares and he is proved to have been present al the Meerut Orphanage meeting. He was eventually captured in a house in Calcutta which was a bomb factory. The corroboration of the evidence of the accomplices against him is very strong. In the first place Banwari Lal, Banarsi Lal and Kunwar

Bahadur have all identified him out of a crowd in the jail and also in Court. Indu Bhushan Mittra has also identified him out of a crowd in the jail and also in Court. He has admitted that the handwriting which has been taken as his standard handwriting is his own. After a careful personal comparison of the documents which implicate him, and which are alleged to be in his handwriting we agree with Mr. Stott in the conclusion that those documents are in his handwriting,and the corroboration afforded by these documents is in itself sufficient to establish that he was one of the conspirators.

We take in the first place the facts that on three separate occasions he sent money orders to Kunwar Bahadur, the money being intended for the use of Banwari Lal. On all these occasions he remitted the money orders under a false name signing himself either as Kashi Nath Bajpai or Kunwar Bahadur Srivastava. It is in evidence that he despatched from Rai Bareli a suspicious telegram Ex. P-110, to Benares. The words of the telegram were :

Marriage postponed until further news.

This is signed under the false name of Jugal Kishore. We further find that Ex.p-162. The "Twelve points" is proved to have been in his handwriting. This shows that he had left with Ram Nath Pande certain points upon which information was to be required. These points were a list of non-co-operators in the district, the population of the district, the number of policemen and other points which would not be desired by ordinary persons. We have again the evidence which connect him with Govind Charan Kar. This is contained in Banwari Lal's confession and there is corroboration here in the evidence of Mahesh Narain Sinha. There is the evidence that the letters which were intercepted in Calcutta adddressed to K.C Guha were in his handwriting.

There are the intercepted letters to Ram Prasad and there is particularly in Ex. P-145 the remark

Please bring my shirt and pen from Chaudhuri.

When Govind Charan Kar known as D.N. Chaudhuri was arrested there was found in his possession an "Apollo," fountain pen and on the evidence of Batak Nath Dey, Sarat Chandra Mukerji, Kamal Indu Sanyal and Amar Nath Chakravarti, all witnesses of Benares, that pen was the property of Rajendra Nath Lahiri. He has beeen clearly identified as having been at the meeting at the Vaishya Orphanage at Meerut on 13th September 1925. The evidence of Sub-Inspector Bhupendra Nath Sarakar proves

that he was arrested in a bomb factory in Calcutta. Thus the evidence of the accomplices is corrobarated absolutely. Even in the absence of the evidence of the accomplices there is other evidence sufficient to justfy the coclusion that he was a member of the conspiracy. He called no witnesses. His competent counsel, Mr. Chatterji of the Calcutta Bar, and Mr. H.C. Dutt, made practically no attempt to discuss the evidence connecting this appellant with the general conspiracy. It is true they did not admit that he had taken part in the conspiracy, but they did not trouble to criticize the evidence connecting him with it.

We now come to his connexion with the train dacoity. According to the evidence of Banarsi Lal and Indu Bhusan Mittra he wax one of the persons who collected in Shahjahanpur before the commission of the train dacoity. This would go for very little in itself. He has further been implicated in Banwari Lal's confession as having taken part in the train dacoity. This would not be sufficient in the absence of corroboration, but his complicity in the train dacoity is established on evidence which , in itself, would be sufficient if it stood alone. As has already beeen said, No8 Down was brought to a standstill by a passenger in a second class compartment pulling the alarm. Dr. Chandrapal Gupta was travelling in the compartment in question. He is a medical officer employed by the East Indian Railway Company whose duties are largely to proceed from one railway station to another on medical attendance on members of the staff. On the evening in question he was returning in that train from Balaman to Lucknow. At Kakori he left his compartment for a few minutes and on his return discovered that three Indian passengers –young men dressed in khaki shirts, short kniker-bockers and stockings, had taken places in the compartment. The compartment in question was a second class compartment. The train left Kakori and had proceeded about a mile and a half when the alarm chains were pulled. The chains were pulled on both sides by two separate men. Then, when the train stopped, those three men got out of the train and took part in the dacoity. Dr. Chandrapal Gupta picked out Rajendra Nath Lahiri from a crowd in the jail and identfied him again in Court as one of the three men who were in the compartment. The evidence of Dr. Chandrapal Gupta in our opinion is very strong. It does not stand alone, however. It corroborates the evidence afforded by the depositions of Banarsi Lal and Indu Bhushan Mittra and the statements in Banwari La1's confession. The learned counsel for this appellant have, as might be expected directed their criticizms mainly against the evidence of Dr. Ghandrapal Gupta.

They have been unable to throw doubts on this gentleman's integrity. They have been unable to show that he is other than an intelligent witness. We have it then, that this intelligent and honest witness has picked out of a crowd in the jail Rajendranath Lahiri as one of the three men who were in the carriage and repeated this identification in Court. The main argument of the learned counsel was that Dr. Chandrapal Gupta might have made a bonafide mistake in identifying this appellant. The evidence as to how this identification was made is as follows :

When Dr. Chandrapal Gupta saw the appellant in the jail he at once took hold of him, saying that he was one of the men in question. He then told Saiyid Ainuddin that he would have to think over the matter because Rajendra Nath Lahiri was not dressed in jail in the clothes similar to those which he had been wearing in the railway carriage and also because Rajendra Nath Lahiri, when the witness saw him in the train had a moustache, whereas the man before him has shaved his moustaches. In the witness-box he stated before the Judge :

I identify him here. After the dacoity I first saw him at the jail identification. He has no Moustache now. He had a very small moustaches at the time of the dacoity. When I picked him out in the jail he was not wearing the same clothes as in the dacoity and he had no moustache. I am absolutely certain now that I saw him in the train dacoity.

We thus have it that this witness identified the appellant at once as soon as he saw him in the jail. He then thought over the question carefully in order to make up his mind whether his identification was or was not correct and after careful consideration decided that it was correct. As the witness is both intelligent and honest, it would, in our opinion be difficult to get a better identification. We are satisfied upon this evidence that Rajendra Nath Lahiri took part in the train dacoity and that he has been rightly convicted by learned Special Sessions Judge on all charges.

Raushan Singh

As we have already stated this man is a man of nearly forty years of age who holds some landed property in the Shahjahanpur District. He was admittedly a friend of Banarsi Lal and also knew Ram Prasad. Banarsi Lal, while stating that Raushan Singh was a friend of Ram Prasad, was not of opinion that Raushan Singh was a member of the revolutionary party. Indu Bhushan Mittra, however, has given evidence that, in his opinion, Raushan Singh was a member of the revolutionary party. He

says :

My reason for thinking that Raushan Singh was a member of the revolutionary society was that one day I went to fetch a book from Ram Prasad and Raushan Singh was there. I got a book which I think was "Bolshevikon ke Kartut" (the deed of the Bolshevists). He said to me, "My child ! why are you taking such books away ? Do not read them" He said this laughing. He also was a frequent visitor to Ram Prasad. Also they used to speak together after closing the door. I got a book, "Life of Mazzini," from Raushan Singh, a fact which I had forgotten to state up till now. This has come back to me this very minute. I got this book in January or February 1925. I asked for this particular book from Ram Prasad and he said Raushan Singh could give it. Raushan Singh does not know English, Raushan Singh was in front of the house of Ram Prasad with the book and I got it from him there. It was in the street. I had asked for this book a week previously. I have seen Raushan Singh locked in with Ram Prasad more than once, but I cannot say how often. He also used to sleep there often. I cannot give the date or month of any of these secret conferences. Once I saw Hargovind with Raushan Singh and Ram Prasad on such a secret talk. This is the only occasion on which I saw a third person with them. I do not remember how often I was told to go out. . . The life of Mazziui which I got from Raushan Singh was really Mazzini ki Lekh and was written in Hindi.

This is the only evidence to prove that Raushan Singh was a member of the revolutionary party with the exception of the evidence connecting him with the Bamrauli dacoity. The evidence connecting him with the Bamrauli dacoity is strong evidence of iderntification. Lalta Prasad who knew him before deposed that he saw him participating in the commission of the Bamrauli dacoity. Kalka Prasad and Kanhai who did not know him before, identified him in jail identification proceedings out of a crowd as one of the men who had taken part Ram Prasad suggested that letters could be sent to him to the care of this youth. Jagdish Chandra has deposed that he used to see Ashfaqullah and Prem Kishan Khanna entering Ram Prasad's house and that after they had entered the house the doors used to be locked. Ram Charan lived in the house of Banarsi Lal in Shahjahanpur. He deposed to having seen Manmatha Nath Gupta and Ram Kishan Khattri visiting Banarsi Lal. Gauri Shankar is a priest in a temple in Shahjahanpur. He deposed to having seen Manmatha Nath Gupta and Ram Kishan Khattri in the company of Banarsi Lal.. Ram Lal is a Shahjahanpur man who was in charge of what is known as a tikasar. This is a rest house. He deposed to Manmatha Nath Gupta

having stayed in the rest house.

In order to connect Govind Charan Kar with the conspiracy Mahesh Narain Sinha, was called to corroborate Jadu Nath Sen. He is a shorthand writer who at one time lived in the Rameshwar Hindu Hotel. Govind Charan Kar approched him, but did not succeed in enlisting him as a member of the revolutionary party. He has deposed to having seen Banwari Lal in the company of Govind Charan Kar. Kunwar Bahadur's evidence connecting Rajendra Nath Lahiri with Banwari Lal is corroborated by Dwarka Prasad. The evidence showing the connexion of Bhupendra Nath Sanyal with the conspiracy is mainly that of Ram Chandra Chatterji, Gopi Pada Shastri and Rishi Kesh Bhattacharji.

We now come to the evidence as to the dacoities. The first dacoity was the Bamrauli dacoity which was committed on the 25th December 1924. Bamrauli is a large village about four or five miles from the Zindpura Railway Station on the metre gauge line between Shahjahanpur and Pilibhit. Zindpura is nineteen miles from Shahjahanpur. Bamrauli is a place of sufficient importance to be mentioned in the Gazetteer of the Pilibhit District. It was originally a small town but is not as prosperous or as populated as it was in former days. The population is, however, still more than two thousand and it is not a place so small as to justify the conclusion that every inhabitant of Bamrauli would know every other inhabitant. The evidence as to the .commission of the dacoity in Bamrauli is very strong. The principal witness is Baldeo Prasad, a man on whose house the decoity was committed. Other witnesses who may be mentioned as proving the commission of dacoity are Lalta Prasad, who lives next door to Baldeo Prasad, Jagannath, son of Baldeo Prasad, and Kalka Prasad and Kanhai who came to the scene, while the dacoity was being committed. Ram Dayal, the Chaukidar of the village, did not approach the scene closely. He made the first report of the occurrenc of the dacoity. This is Exhibit P-388. He had seen the attack from some little distance. His report ends with the words

sometimes more light is visible on the roof and in the house as if fire is lighted.

The evidence in support of the conclusion that this dacoity was committed by members of the revolutionary conspiracy and in pursuance of the object of the conspiracy is as follows :

It is proved by the evidence of Sub Inspector Chattar Singh that the following articles were found on the scene of the dacoity.

Seven ·300 empty metal cartridge cases bearing the mark on the base

D W M

K K

403

Five empty ·450 cartridge cases.

Two loaded ·450 cartridges intact.

One ·450 loaded cartridge misfired.

The significance of the discovery is this. Dacoities are not infrequent in the United Provinces. Dacoities in which fire-arms are used form the minority. As the criminals who commit dacoities are usually villagers, and as such villagers cannot usually obtain access to small bore rifled fire-arms and would have great difficulty in obtaining ammunition for small bore rifled firearms, it is almost unknown for such fire-arms to be used in the commission of dacoities in this province. Here the discovery of these cartridges and empty cartridge cases on the scene of the dacoity indicate that small bore rifled fire-arms were used and this fact is very significant. What is even more significant is that seven empty cartridge cases were found of the exact make which had been purchased by Ram Prasad on the 7th August 1924 from P. N. Biswas & relation of Gajraj Singh. Raushan Singh's father's sister's husband Nathu Ram was a servant of Gajraj Singh. The fight had taken place three years before commission of the dacoity. All that learned counsel are able to say is that when a dacoity was committed in house of Baldeo, Lalta Prasad must have gone out of his way to accuse falsely Raushan Singh of having taken part in the dacoity, because Raushan Singh's father's sister's husband had been a servant of Gajraj Singh, and because Lalta Prasad was not on the best of terms with certain relations of Gajraj Singh. This was the best case that the learned counsel were able to put up, and Sub-Inspector Rarn Chandra Sharma was unable to produce anything as coherent. Nevertheless he refused to take action against Raushan Singh. Raushan Singh has put forward an explanation as to why he has now been implicated in this case. This explanation is not supported by evidence but we note what it is. He says that he had worked as a police spy for the special police, who were engaged in the suppression of organized dacoity in the Pilibhit and other districts, and that the fact that he worked as a police spy for these police has caused him to incur the enmity of the district police and the Criminal Investigation Department. There is everything to show that so far from having incurred the enmity of the district police the district police shielded

him when his name was originally mentioned. Absolutely no suggestion is made as to why the Criminal Investigation Department should go out of their way to implicate a police spy on a false charge. There is of course no evidence to show that Raushan Singh is a police spy. We have now sufficiently examined the facts as to why he was not proceeded against originally. In our opinion the conduct of Sub-Inspector Ram Chandra Sharma requires investigation and we trust that it will be investigated by the police authorities.

The next point taken up on behalf of Raushan Singh is based upon an inaccurate reading of the evidence, the suggestion being that Raushan Singh was not the man who visited Bamrauli that day. Upon this point it is sufficient to note the following evidence. Raushan Singh had originally relations in Bamrauli. He does not live in Bamrauli. He lives in a village in the Shahjahanpur District which is several miles distant from Bamrauli which is in the Pilibhit District, Puttu Singh deposed that Raushan Singh, who had some local knowledge of Bamrauli but who had been there, very seldom in the past few years, came to Bamrauli on the morning of the dacoity and was seen by him at 8 a. m. Puttu Singh and Gajraj Singh have houses in the same enclosure. Raushan Singh had come to the house of Gajraj Singh. Baldeo Prasad had stated, that on the morning of the dacoity he had gone to the house of Puttu Singh to borrow a cart, and that he had seen in Puttu's compound a man of another village whom he did not know. The argument here is that the man of the other village whom he did not know was the man who took part in the dacoity, and was not Raushan Singh. There is no foundation for this suggestion. Lalta Prasad had deposed that lie had seen Raushan Singh that morning in Bamrauli and saw him again taking part in the dacoity. He was the man who mentioned Raushan Singh's name to the police. He said that when he saw Raushan Singh in the morning Shankar Singh, the son\ of Gajraj, was with him.

In respect of the fourth point we are clearly satisfied that there was ample light by which an identification could have been made. Sugar boiling was in process at the time. There was further a light from the fires and there was further the light of the eletric torch.

The evidence produced by Raushan Singh in his defence has not succeeded in helping him. The evidence which attempts to prove enmity is not worth discussion. The evidence which he has produced to prove that he was in Bamrauli not on the day of the dacoity but on the day

before is that of Gajraj Singh. We do not believe it. We accordingly find that it is proved that Raushan Singh participated in the commission of the Bamrauli dacoity. We have already found that the Bamrauli dacoity was committed in pursuance of the aims of the revolutionary conspiracy. We find that Raushan Singh was an intimate friend of Ram Prasad, and we find on the evidence of Indu Bhushan Mittra that he used to have meetings with Ram Prasad behind closed doors and that his conduct was such as indicated that he was a member of the conspiracy. We have found in appeal 380 of 1927 that Ashfaqullah who is one of the conspirators participated in the commission of the Bamrauli dacoity. We consider that these facts sufficiently corroborate the evidence of Indu Bhushan Mittra and we therefore find that Raushan Singh has been rightly convicted on all the charges on which he has been convicted by the learned Special Sessions Judge.

Jogesh Chandra Chatterji

This man as has already been stated is a resident of Bengal of over 30 years of age. The evidence against him which shows that he was one of the conspirators, is that of Banarsi Lal. He is also mentioned by Banwari Lal in his confession. If this evidence is accepted there cannot be the slightest doubt as to the fact that he was a member of the revolutionary party. It is corroborated by the fact that both Banarsi Lal and Banwari Lal picked him out of a crowd in jail identification proceedings as the man to whom they referred. This evidence, however, is not the main evidence against him. The main evidence against him which corroborates the evidence contained in Banarsi Lal's deposition and Banwari Lal's confession is the evidence that when he was arrested on the 18th October 1924, Ex. P-198 containing an account of the meeting of the revolutionary party was found in his possession. This evidence not only strongly corroborates the evidence of the accomplices but in itself would be sufficient for his conviction if believed. It is as follows :

Inspector Muhammad Ismail of the Bengal Criminal Investigation Department has deposed that he was on duty in the neighbourhood of the Howrah Bridge Calcutta, on the 18th October 1924. He saw Jogesh Chandra Chatterji in the precincts of the Howrah Railway Station. He says that he had heard his name before but did not know him before. He considered his behaviour suspicious and followed him over the Howrah Bridge to the junction of Harrison Road and Strand Road. There he apprehended him

as a suspect and took him to a shop close to the place of the arrest where he searched him in the presence of two witnesses who were selected at random. Jogesh Chandra Chatterji was made to sit on a bench in front of the shop. While the inspector was searching his inside pocket, Jogesh Chandra Chatterji took a paper from his lower left hand outside pocket and let it fall on the takht (plat form beneath the bench).

This paper was Ex. P. 198. We have already given the contents of this paper. If this story is believed, there cannot be the slightest doubt as to the guilt of the appellant. Kabiraj Bhuban Mohan Das, a search witness, was called to prove the discovery of Ex. P-198 from the possession of the appellant. He has corroborated Inspector Muhammad Ismail absolutely. In his statement before the special Sessions Judge, the appellant put up the defence that Ex. P-198 had not found in his possession. His case that the police officers, who had arrested him had brought this paper with them and had planted it on him. He called the other search witness Kali Das Ghose in his defence. He also called two other witnesses to show that on certain dates he could not have been in United Provinces. He was defended in this Court by Mr. N. C. Dutt who confined himself to criticizing the evidence for the prosecution. He has been unable to explain how Banarsi Lal who is a resident of Shahjahanpur and Banwari Lal who is a resident of Rae-Bareli could have been in any position to identify Jogesh Chandra Chatterji as they did identify him, if they had not known him before. In respect of the discovery of Ex. P-198 Mr. Dutt has been unable to shake the evidenee of the prosecution witnesses. Kali Das Ghose, the witness to the search who was called as a defence witness, has not supported the appellant's story. He says that he was a witness to the search and that he saw Ex. P-198, but that he did not see it drop from the appellant's pocket. He was clearly not in a position to see the paper drop from the appellant's pocket as it was dropped from the side of appellant opposite to the side on which the witness was standing. Kabiraj Bhuban Mohan Das has stated that saw the appellant let fall the paper and that he picked it up. His words are:

At the search while the Inspector was searching his pockets Jogesh let fall a paper on the takht on which I was setting. I picked; it up while both I and the Inspector tried to do so and I gave it to the Inspector.

This was Ex. P-198. The appellant stated that when the paper was discovered he protested loudly. Kali Das Ghose has no recollection of his making any protest. The other two witnesses Profulla Chandra Chakrabarti

and Jitendera Chandra Bhattacharji do not appear to us to be reliable witnesses and in no circumstances would their evidence of great value. The appellant appears to have taken some exception to the fact that a certain witness whose evidence he desired was not called. We find there is no foundation for this objection. A summons was issued for the attendance of his witness. The witness who resided in Calcutta sent a medical certificate stating that he was unable to attend and no further steps were taken by the appellant to procure his evidence. The suggestion that Ex.-198 was planted upon the appellant is apart from the evidence, a suggestion which can hardly be argued seriously. On the date of the appellant's arrest the 18th October 1924, neither the United Provinces police nor the Bengal police had any suspicion that there was a specific revolutionary party in the United provinces with an organization that had developed as far as the holding of meetings. As has already been noted, the clue afforded by Ex. P-198 was not followed up at the time. It is true that Rai Sahib Durga Prasad, Deputy Superintendent of Police in the Criminal Investigation Department, who has given evidence in the case, stated that he heard possibly as early as July 1924, that there was some sort of a revolutionary society and that a man who called himself Roy'—that is to say the appellant who passed under the name of Roy—was visiting the United Provinces. But he did not communicate his suspicions otherwise than in his confidential diaries to anyone until the 19th November 1924 (a month after the appellant's arrest and the discovery of Ex. P-198) when he warned the Superintendent of police, Shahjahanpur, in Ex. P-658 of the possibilities of dacoities being committed by political criminals in the Shahjahanpur District. We believe the evidence of Banarasi Lal and the statement of Banwari Lal and we believe Inspector Muhammad Ismail and Kabiraj Bhaban Mohan Das as to the account which they give of the discovery of Ex. P-198. We accordingly find that the appellant Jogesh Chandra Chatterji has been rightly convicted on the charges on which the learned Special Sessions Judge convicted him.

Suresh Chandra Bhattacharji

This man as we have already stated is a Cawnpore man who is employed as a sub-editor in a newspaper. He has been convicted on the charge of general conspiracy, but acquitted on the charge of complicity in the train dacoity. The evidence against him is partly contained in the evidence of Gopi Mohan who has deposed to his association with Ram

Dulare appellant. We are satisfied that the entries in a certain note-book found at the time of his arrest are in the appellant's handwriting and from a comparison with the handwriting in this note-book we are satisfied that he despatched a money order, Ex. P-96, on 28th November 1924 for Rs. 10 to Kunwar Bahadur with the intention that the money should be given to Banwari Lal. This rnoney order was sent under the false name of "N. Prasad." The main evidence, however, against this appellant is the evidence that he attended the meeting at the Vaishya Orphanage. He was not present at the Vaishya Orphanage on 13th September 1925. The evidence of Police constable Surju Dayal, which is corroborated by other evidence shows that this appellant left Cawnpore on 13th September 1925, and arrived at Meerut at 7-30 a. m., on 14th September 1925. Police constable Surju Dayal had been ordered to shadow this appellant to Meerut, Suresh Chandra being at the time a political suspect. He has deposed that he did follow him to Meerut. At Meerut the appellant went to a Dharamsala and then Police constable Surju Dayal lost trace of him until the afternoon when he shadowed him back to the railway station and followed him to Cawnpore. Sub-Inspector Brahma Singh and Pheru Singh have deposed that Suresh Chandra Bhattacharji was one of the men who entered the Superintendent's residential quarters at the Orphanage at 10 a. m. on the 14th September 1925. Pheru Singh has deposed that Suresh Chandra Bhattacharji left these quarters at 2 p. m. Sub-Inspector Brahma Singh and Pheru Singh picked the appellant out of a crowd at jail identification proceedings and identified him again in Court. He was defended by Mr. H, N. Misra. He admitted that he had left for Meerut on 13th September 1925, and that he arrived there on 14th September 1925, but he denied that he had ever gone to the Vaishya Orphanage. He called a large number of witnesses. His witnesses Dr. S. N, Sen, Sital Prasad, Mohit Kumar Mukerji and Hari Gopal Ray were to prove that he was in Cawnpore on the day when the train dacoity was committed. As he has been acquitted on the charge of having participated in the commission of the train dacoity, we need not discuss their evidence. His remaining witnesses were called to prove that Gopi Mohan was not telling the truth. The evidence of Gopi Mohan against this appellant is comparatively valueless. We do not, however, believe the evidence of these witnesses. He has taken an objection that his brother whom he wished to call as a defence witness was not heard by the learned Special Sessions Judge. We note that he had ample opportunity of producing his brother as a witness during the period in which his witnesses were being heard, and that he abstained from calling

his brother during that period, but wished to call him after his case was closed. We consider that the learned Special Sessions Judge rightly refused to hear that witness. At time that it was proposed to call him the whole of the evidence was closed and arguments were about to commence. We see no reason to disbelieve the evidence of Gopi Mohan, though it does not prove very much against this appellant. We believe the evidence of Sub-Inspector Brahma Singh and Pheru Singh against him. We find that he visited in Meerut the residential quarters of Vishnu Saran Dublis in the Vaishya Orphanage and remained there between 10 a. m. and 2 p. m. on the 14th September 1925. As we have already found, a secret meeting attended by members of the inner circle of the revolutionary party was being held at that time in those quarters. The appellant has been unable to explain to our satisfaction what he was doing in Meerut at the time and it is very noticeable that though he has called a large number of witnesses he has called no witness to prove his activities in Meerut on that date. He has further been unable to explain why he should have sent a money order under a false remitter's name to Kunwar Bahadur. We consider that he has been rightly convicted on the charges on which the learned Special Sessions Judge has convicted him.

Vishnu Saran Dublis

He is a full-grown man who was Superintendent of the Vaishya Ophanage at Meerut. He admittedly was in the Orphanage on the 13th and 14th September 1925 and, if the evidence of Sub- Inspector Brahma Singh and Pheru Singh against him is believed, he was receiving in his residential quarters men who are proved to have been members of the revolutionary conspiracy and concealed their presence. If the evidence of these two witnesses be believed he has been rightly convicted of complicity in the conspiracy unless he can give a satisfactory explanation of these facts. We have already stated our conclusions that Sub-Inspector Brahma Singh and Pheru Singh have told the truth. We find them to be reliable and intelligent witnesses.

We have waited until we come to the appeal of the present appellant to consider the objections raised in defence against the evidence of these witnesses. The defence in the lower Court apparently assailed their evidence in possible manner. They went as far as to suggest that Sub-Inspector Brahma Singh had never visited Meerut. As against Pheru Singh it was stated that he had hopes of entering police service, and that therefore,

he was ready to tell any untruth which would oblige the prosecution. In this Court the position was modified and it was not suggested that either Sub-Inspector Brahma Singh or Pheru Singh were altogether dishonest witnesses, but it was suggested that they were partially dishonest and had em- broidered their stories somewhat. It was suggested that they had not kept strict a watch upon the Orphanagea as they said they had. It was suggested that they would have no light in evening by which to identify anybody. It was suggested that from the place where they stood they could have seen, nothing. We have considered all these suggestions, and we find that there is no force in any one of them. Vishnu Saran Dublis is a man of some position in Meerut, and he clearly had no difficulty in procuring a mass of persons, to give evidence in his favour. He has thus been able to procure the evidence of colie called Chhidda, who has deposed that just at the. particular time that Sub-Inspector, Brahma Singh aod Pheru Singh were watching the premises, the municipal lamp outside the premises was broken. It was broken shortly before the 13th September 1925 and mended after a few months, It is only necessary to say that we do not believe Chhidda to be telling the truth.

The appellant's appeal was argued by Mr. Kapila Deva Malaviya of the Allahabad Bar who addressed us an intelligent and careful argument. He has, however, been unable to explain away the facts againsed his client. The defence evidence may be divided into two parts, evidence which does not help the appellant, if believed, and evidence which, if believed, would help the appellant. The most respectable witnesses who have been called on behalf of the appellant are Pt. Debi Sahai, Mahabir Prasad, Har Sarup, Amar Singh and Nirmal Sarup, but there is nothing in their evidence which contradicts the story that Vishnu Saran Dublis had collected revolutionaries in his own residential quarters, and that a meeting was being held there by the members of the inner circle of the revolutionary party. Even if these witnesses be believed their evidence would only show that Vishnu Saran Dublis was not always with his associates, and that he was carrying on his duties as Superintendent during business hours. This would not prevent his joining the deliberations outside his own business hours when he had his friends collected in his own private residential quarters. Baldeo Chaube, Mohan Lal Durga Prasad, Murari Lal and Chhidda have given evidence which, if believed, would be of more value but we do not believe these witnesses, we believe Sub-Inspector Brahma Singh and Pheru Singh. This being our conclusion on the evidence we now proceed to consider the remaining arguments raised

by Mr. Malaviya. Mr. Malaviya's case was that, even if the evidence of Sub-Inspector Brahma Singh and Pheru Singh were accepted as absolutely reliable, there was nothing to show that his client had been guilty of any offence. His first point was that these persons might have been collected in the appellant's residential quarters without his knowledge. Mr. Malaviya's arguments were usually better than this. We do not criticize him for taking any point. which he considered might help his client, but this suggestion can hardly be entertained seriously. The residential quarters which are proved from a plan are fairly spacious. Combined with certain office accommodation which can be approached and which could be utilized out of office hours for the accommodation of guests they would provide for seven outsiders. Vishnu Saran Dublis and members of his household. But the space is not such as would render it possible for seven men to have been residing in those quarters without the knowledge of the appellant. His next point was that even if those persons were residing in those quarters in the manner stated by Sub-Inspector Brahma Singh and Pheru Singh, and amongst those persons were Ram Prasad Bismil, Rajendra Nath Lahiri, Suresh Chandra Bhattacharji and Damodar Sarup, there was nothing to show that they were collected there for other than an innocent purpose. We cannot accept this contention. Having found as we have done, that Ram Prasad Bismil and Rajendra Nath Lahiri (apart from Suresh Chandra Bhattacharji and Damodar Sarup) were members of the conspiracy and the evidence further showing that they were leading members of the conspiracy, and having further found from the documentary evidence that an important meeting of the revolutionary party had been arranged at the quarters of Vishnu Saran Dublis in the Vaishya Orphanage at Meerut to commence on 13th September 1925, the evidence of Sub-Inspector Brahma Singh and the evidence of Pheru Singh establish sufficiently that the parsons on the premises of Vishnu Saran Dublis had collected in order to hold an important meeting of the revolutionary party.

We have formed no conclusion as to Ex. P-l4l having been written by Vishnu Saran Dublis. We do not find that it was written by him. We have no evidence to support a finding that it was written by him. But this letter purported to come from the Vaishya Orphanage, Meerut. It was signed by a person who called himself the Superintendent, and that letter makes certain points very clear. It stated a complete untruth to the effect that there was to be an executive meeting of the Orphanage Committee on that date. It stated that a person who was called an "Updeshak" or lecturer from Lahore had promised to attend and it arranged for places

where the persons who were coming to the Orphanage were to assemble and it further stated that the place had been after due deliberation fixed at the Superintendent's "own place." We have already referred to this letter and also to the other letters which indicate that a meeting of the revolutionary society was to be held on that date in Meerut. When we have upon the evidence of Sub-Inspector Brahma Singh and Pheru Singh the fact that as darkness was coming on, eight men, amongst whom were Ram Prasad, Rajendra Nath Lahiri and Vishnu Saran Dublis, emerged from the residential quarters of the last named, went away for an hour and a half, then returned to those quarters, and apparently remained there for the whole night, and that Suresh Chandra Bhattacharji with another man came to those quarters on the following day and stayed there for some hours, we can only form the conclusion that there was such a meeting in those residential quarters at that time.

Mr. Chatterji on behalf of Rajendra Nath Lahiri and Mr. Malaviya on behalf of Vishnu Saran Dublis asked us to note that there were eight voluntary workers attached to the Orphanage and suggested that the eight men who were seen by Sub-Inspector Brahma Singh and Pheru Singh emerging from those quarters might have been the eight voluntary workers. We have examined this point and we find that there is no force in the suggestion and that in no circumstances could eight voluntary workers have been emerging from the Superintendant's quarters as darkness was coming on, on the night of the 13th September 1925, which was a Sunday night. After considering the arguments of Mr. Malaviya and giving them full attention we state again the conclusion which we have already stated that on the evidence it is clearly established that there was a meeting of the members of the inner circle of the revolutionary society in the quarters of Vishnu Saran Dublis at the Vaishya Orphanage at Meerut on 13th and 14th September 1925. We are satisfied that Vishnu Saran Dublis had full knowledge of the meeting, that he was present at the meeting and that he took part in the deliberations. We find that he has ben unable to explain away anything connected with these facts. We accordingly find that he has been rightly convicted on the charges on which the learned Special Sessions Judge has convicted him.

Manmatha Nath Gupt

This appellant is a Bengali youth who resided with his father at 62, Ganesh Mahal, Benares. He was studying in a private institution in Benares

in 1924 and 1925. At the time of his arrest he was a little over eighteen years of age. The evidence which shows that he was a member of the conspiracy is the evidence of Banarsi Lal and Indu Bhushan Mitra. This evidence, if accepted, establishes absolutely that he was a member of the conspiracy. He was known under the name of "Nawab." His handwriting has been proved from Ex. P-156 and Ex. P-449. The corroboration of the accomplices' evidence against him is to be found in the evidence of Ram Charan, Gauri Shankar, Ram Lal and Jagdish Chandra. Ram Charan, Gauri Shankar and Ram Lal who are all Shahjahanpur men, deposed that they had seen him in Shahjahanpur. Further it is established to our satisfaction that he wrote the postcard Ex. P-171 which was found in possession of Parnawesh Kumar Chatterji. This corroboration would in itself be sufficient but apart from that, there is against him some very important evidence, which not only corroborates the evidence of the accomplices, but which in itself would be sufficient for his conviction. As we have already stated, when he was arrested there were found in his possession Ex. P-153, a typed excerpt from the Revolutionary Rules, and Ex. P-154, a translation in Hindi, proved to be in his handwriting, of Ex. P-153. It is further proved that Ex. P-153 had been typed on the corona typewriter found in the posession of Parnawesh Kumar Chatterji. He is proved to have taken part in the Bichpuri dacoity. Banarsi Lal has given evidence to that effect and this evidence has been corroborated by the fact that Gokul and Lila identified him in Jail identification proceedings (though they were unable to repeat the identification in Court) as a man whom they had seen in the neighbourhood just before the commission of the dacoity. He has also been proved to have participated in the commission of the train dacoity.

Banarsi Lal has deposed that he was present at Shahjahanpur when the appellant with other persons had collected to commit that dacoity. Banwari Lal in his statement before the learned Special Sessions Judge said that Manmatha Nath Gupta had taken part in the train dacoity but that he had at first refused to mention his name as he wished to shield him. There is independent evidence that he took part in that dacoity. Abdul Wadud picked him out in jail identification proceedings as one of the men who had taken part in the train dacoity and repeated the identification in Court. Radhe Lal, the manager of the Chhedi Lal Dharamshala, identified him in jail identification proceedings as one of the men who had stayed at the Chheddi Lal Dharamshala on the 7th, 8th and 9th August 1925. Kallu, Desi and Sitalwa identified him in jail

identification proceedings as one of the men they had seen at Amithia. Radhe Lal, Kallu, Desi and Sitalwa were unable to repeat their identifications in Court. The appellant's statement before the learned Special Sessions Judge consisted of an assertion that 'Ex.P-153 and Ex. P-154 had been planted upon him at the time of the search of his house. He called, however, no witnesses to support this assertion, and nothing was elicited in cross-examination to justify it. He denied participation in the conspiracy or in the dacoities. He was represented before us by Mr. N.C. Dutt, Mr. N.C. Dutt commented on the evidence of Ram Lal. Ram Lal had deposed that he saw Manmatha Nath Gupta at Ram Lal's house at Tikasar on the Parewa. The Bichpuri dacoity was committed on 9th March 1925. Mr. Dutt's suggestions that he was on the Parewa on the morning of the 10th March 1925 and that in those circumstances it would have been impossible for Manmatha Nath Gupta to have been at Bichpuri on 9th March 1925, and in Shahjahanpur on the morning of the 10th March 1925. Mr. Dutt was, however, under a misapprehension. The Parewa, as we have ascertained from the calendar, was on the 11th March 1925. So Ram Lal's statement is not affected.

We find that it is clearly established that Exs. P-153 and P-154 were found in the possession of the appellant. They alone are sufficient to prove, in absence of an explanantion, that he was a member of the conspiracy. No explanation was offered. Mr. Dutt did not press his defence in respect of the complicity in the conspiracy. We further find that Ex. P-171 was in the appellant's handwriting. We believe the evidence of Banarsi Lal, Indu Bhushan Mittra, Ram Charan, Gauri Shankar and Ram Lal against him. Upon this evidence he was clearly a member of the conspiracy. In respect of the Bichpuri dacoity we find that the evidence of Banarsi Lal, corroborated as it is by the evidence of Gokul and Lila, sufficiently establishes that he took part in that dacoity. In respect of the train dacoity we find the evidence of Abdul Wadud alone sufficient to establish that this apellant took part in the commission of the train dacoity. It does not, however, stand alone. We accept the evidence of Radhe Lal, Kallu, Desi and Sitalwa as correct and as coroborating it. Banarsi Lal's final implication of him in his confession is also sufficiently corroborated. We accordingly find that the appellant has been rightly convicted by the learned Special Sessions Judge on all charges.

Govind Charan Kar

This man is a resident of Bengal. He was at the time of his arrest about thirty years of age. It is proved that he was living under the false name of "D.N. Chaudhuri" in the Rameshwar Hindu Hotel. The main witness against him is Jadu Nath Sen whose evidence if accepted would be sufficient to establish the appellant's participation in the conspiracy. As Jadu Nath Sen is an accomplice his evidence requires corroboration. It is corroborated by the evidence of Jagannath Prasad, Jagannath Sen's head master, Sita Ram and Mahesh Narain Sinha. There is further ample other corroboration. At the time of Govind Charan Kar's arrest a fountain pen belonging to Rajendra Nath Lahiri was found in his possession. This is the pen to which reference has been made in the intercepted letter Ex. P-145. The most important evidence against this appellant, which alone would be sufficient to convict him, in absence of explanation, is the discovery at the time of his arrest in his room in the Rameshwar Hindu Hotel of a copy of the Revolutionary Rules which has been described as the "Yellow Leaflet." He has further been found guilty of complicity in the train dacoity. He was picked out of a crowd in jail identification proceedings by Desi as one of the men seen by him at Amithia. Desi was not certain as to the date. We are of opinion that he is testifying as to what happened on the 8th August. After the dacoity there was found in the brake-van a khaddar chadar or sheet bearing a particular washerman's mark. Lalta Dhobi who washed clothes for the Rameshwar Hindu Hotel has identified this Washerman's mark as being the mark used by the appellant for whom he had washed.

Banarsi Lal had stated that when he saw Ashfaqullah after the commission of the train dacoity Ashfaquallah told him that an unfortunate oversight had happened, namely that a Khaddar Chadar had been left behind. Banwari in his confession stated that he had met the appellant on 8th August 1925 in the Aminabad Park, at Lucknow and that after the train dacoity he took notes of about Rs.880 from the appellant in Lucknow and handed them over to Rajendra Nath Lahiri at the Raiulway Station at Allahabad. Mahesh Narain Sinha has corroborated. He knew Banwari Lal. He knew the appellant under the name of D.N. Chaudhri. He deposed to having met Banwari Lal in the apellant's room in the Rameshwar Hindu Hotel. Jadu Nath Sen deposed that on 9th August 1925, the date of the dacoity, he saw the appellant leave his room in the Rameshwar Hotel at about 4.00 p.m. and lock the door, and that when he went to sleep at

about 9 p.m. the appellant had not returned. He deposed that he did not see the appellant unitl the following afternoon at 4 p.m. and that that day he went into his room where he ate sweets with him and that at the time when he was eating sweets he noticed that as the appellant moved there was a tinkling sound from his pocket as though he had a good deal of money in it. He deposed that he asked the appellant (using a slang expression) what he had struck his hand to or what had he struck, suggesting that the appellant had made a haul. The appellant was annoyed with him for asking the question.

Mr. N.C. Dutt represented the appellent in this Court. Certain witnesses were called on behalf of the appellant the purport of whose evidence was intended to show that the boy Jadunath Sen was telling an untruth when he stated that he had occupied a room in the Rameshwar Hotel on the same floor as the room which was occupied by the appellant. It is difficult to understand how Jadunath Sen's evidence would have been affected seriously whether he occupied, as he stated he occupied, a room on the same floor as the room in which the appellant resided, or a room on a different floor to the floor in which the appellant resided. But we need not follow this point as we believe Jadunath Sen and do not believe the defence witnesses on the point. The main defence taken, however, was not in respect of the charge of complicity in the conspiracy but in respect of the charge of complicty in the train dacoity. Mr. Dutt on behalf of the appellant laid great stress on the entry in the meals register of the hotel which went to show that on 9th August 1925, the appellant had taken his second meal in the hotel. The learned Special Sessions Judge refused to accept the defence as true upon this point, and has given sufficient reasons for refusing to accept it as true in his judgment from O.P.46 onwards. Although the appellant's case on this point was suported to some extent by two receipts which were found at the time of his arrest, we are satisfied that the entry in the meals register is most suspicious, that the receipts had been prepared in advance to assist the appellant in event of his apprehension, and that the learned Special Session Judge took a correct view upon this point. The preparation of the receipts to assist his defence would not have been a difficult matter, as there is every reason to suppose that the manager of the Rameshwar Hotel, Sheo Shankar Sahai, was an active partisan of the appellant. The defence, however, upon this point is of little or no avail. We have it on the evidence of Jadunath Sen that the appellant did not leave his room in Rameshwar Hotel till some time between 3 and 4 p.m. on 9th August 1925. He would have had

ample opportunity to arrive on the scene of the dacoity before it was committed if he had left the hotel even as late as 5 p.m. on the 9th August 1925. The distance from the hotel to the scene of the dacoity is not as much as eight miles and there is a metalled road the whole way, along which vehicles ply for hire. Ram Karan, called as a defence witness, who is a cook at the Rameshwar Hotel, has given evidence which shows that the second meal is ready for the inmates at any time between 4 p.m. and 9 p.m. Thus it could well be served half an hour before 4 p.m. In these circumstances even if the appellant had taken his second meal at the hotel on 9th August 1925, he could have easily eaten it and left the hotel in time to reach the scene of the dacoity, before the dacoity was committed.

The evidence of the appellant's complicity in the conspiracy is very strong. We believe that Jadunath Sen has told the exact truth. We have already found that the fountain pen belonged to Rajendra Nath Lahiri. It was found in the possession of the appellant. We find that Ex.P-280, "The Yellow Leaflet," was also found in his possession. He has been unable to give any satisfactrory explanation of the evidence connecting him with the conspiracy. In respect of the evidence connecting him with the train dacoity we see no reason to distrust Desi's evidence. He is very uncertain as to the date, but clearly saw the man whom he identified as the appellant the day before the dacoity. We find that the appellant had left the Rameshwar Hotel shortly after 4 p.m. On the date of the dacoity and that he had not returned until after 9 p.m. We believe the statement of Banwari Lal, corroborated as it is that he met the appellant in the company of Rajendra Nath Lahiri the day before the dacoity, and that after the dacoity he received Rs.880 in notes from the apellant which he handed over to Rajendra Nath Lahiri. We find that a Khaddar Chadar belonging to the appellant was found in the brake-van after the dacoity had been committed. We find that after the dacoity was committed Jadunath Sen noticed that the appellant had a good deal of money, the possession of which he refused to explain. It is true that Banwari Lal does not mention having seen the appellant taking part in the dacoity but as the dacoits were separated into several groups, some being in the brake-van, some being on the near side of the train, some being on the off side of the train some being behind the train, the fact that Banwari Lal does not say that he saw him there does not assist him. We find upon the evidence that he participated in the commission of the train dacoity and that the learned Special Sessions Judge has rightly convicted him on the charges on which he has been covicted.

Makundi Lal

As we have already stated, this appeallant is a man of over 30 years of age from the Etawah District. The main evidence against him is in connexion with the train dacoity. But if this evidence is believed it is clear that he was also a member of the revolutionary conspiracy and not a chance associate in the cmmission of the dacoity. Banarsi Lal has deposed that Makundi Lal was one of the men who came to Shahjahanpur before the train dacoity. He picked him out of a crowd in jail identification proceedings and identified him again in Court. The evidence of corroboration of Banarsi Lal on this point is contained partly in evidence as to the appellant having sent on 3rd August 1925, a money order Ex. P-378 for Rs.5 from Shahjahan to his wife in Benares City. Attached to this money order was the coupon Ex. P-445 on which is written:

I am well. It will take one week more. Your well-wisher Makundi Lal. Do not be anxious at all.

He was identified as having taken part in the train dacoity by the Guard Jagannath. Jagannath picked him out of a crowd in jail identification proceedings as one of the dacoits. He repeated this identification in Court. He was also picked out of a crowd in jail identification proceedings by Sitalwa as one of the men who were assembled in Amithia close to the commission of the dacoity. Sitalwa was unable to repeat this identification in Court. It is further proved, Ex. P-26, that on 10th August 1925, the day after the dacoity he took a room in the Kashmiri Hotel, Aminabad, Lucknow, and registered his name as Banarsi Lal Agarwala of Shahjahanapur. He confined himself to a general denia and called no defence witnesses. He was represented in appeal by Mr. H.N. Misra who confined himself to general criticizms. Banwari Lal does not mention this appellant by name as one of the men who took part in the train dacoity, but the omission does note help the appellant. The appellant admitted that the money order Ex. P-378 was in his handwriting and that he was in Shahjahanpur on 3rd August 1925. We believe the evidence of Jagannath and Sitalwa against him. We find that the entry Ex. P-26 was in his handwriting. He has been rightly convicted by the learned Special Sessions Judge on the charges on which he has been convicted.

Ram Kishan Khattri

This appellant is a young man who was about 22 years old at the time

of his arrest. He is a resident of Chanda in the Central Provinces. According to his own statement he has for some time embraced a life of religion. He has been convicted of complicity in the conspiracy, and of having participated in the commission of the Bichpuri dacoity. Banarsi Lal has deposed that he was one of the conspirators who was known by the name of "Ganga Ram" and who visited Shahjahahnpur and associated with Ram Prasad and the others. Banarasi Lal's evidence to this effect has been corroborated by Ram Charan and Gauri Shankar of Shahjahanpur who deposed that they had seen the appellant in Shahjahanpur. Gauri Shankar had seen him in the house of Banarsi Lal. Ex. P-147 is proved to have been in his handwriting. Gauri Shankar had seen him in the house of Banarsi Lal. Ex. P-147 is proved to have been in his handwriting. This is the letter which arrived to the address of Indu Bhushan Mittra after his arrest and had thus come into the possession of the police. It shows that Ram Kishan Khattri who signed himself "Narendra" had returned to Chanda and requested that Rs.10 more should be sent to him. The contents of two previous intercepted letters, Ex. P-140 and Ex. P-142 are signed "Narendra." In Ex. P-147 occurs the phrase: "Don't anxious for me." Ex. P-142 contains the expression: "Dont' anxious for me so much." The evidence which shows that he participated in the commission of the Bichpuri dacoity is the evidence of Banarasi Lal which is corroborated by the evidence of Toti, Gokul and Balkua. Toti was the victim in the Bichpuri dacoity. He deposed that he saw the appellant take part in the dacoity Gokul and Balkua deposed that they saw the appellant close to the scene of the dacoity shortly before it was committed. Banarsi Lal, Toti, Gokul and Balkua picked the appellant out of a crowd in jail identification proceedings and also identfied him in Court. Behari, Toti's brother, picked him out of a crowd in jail identification proceedings as having taken part in the Bichpuri dacoity. He was unable to identify him in Court. The appellant in his statement before the learned Special Sessions Judge made serious allegations against Mr. Horton which he made no attempt to prove. He called defence witnessess to prove an alibi. He was represented before us by Mr. N.C. Dutt, Mr. N.C. Dutt confined himself to criticizing the evidence for the prosecution. He laid no stress on the evidence for the defence. We find that the evidence for the defence is unreliable. We are satisfied that Banarsi Lal's statement against the appellant has been sufficiently corroborated and that it is true. We find that the evidence to prove that he participated in the commission of the Bichpuri dacoity is absolutely reliable. We therefore find that he has been rightly convicted

on the charges on which he has been convicted by the learned Special Sessions Judge.

Prem Kishan Khanna

This appellant is a man who has been working for some years as a contractor in Shahjahanpur. He is the son of an engineer who holds the position of an Executive Engineer in the E.I. Ry.Co. Banarsi Lal has deposed that Prem Kishan Khanna was a Shahjahanpur man, but stated he did not know that he was a member of the revolutionary society. Indu Bhushan Mittra has, however, deposed that he considered Prem Kishan Khanna a member of the revolutionary society. He said that Ram Prasad had at first denied that Prem Kishan Khanna was a member, but that afterwards he suspected that Ram Prasad's denial was not true, that he had noticed three or four secret confabulations between Ram Prasad and Prem Kishan Khanna, that he had entered a room in Ram Prasad's house, when he found Ram Prasad and Prem Kishan Khanna talk behind closed doors, and that when he entered the room the conversation used to stop. Prem Kishan Khanna, as has already been stated, was the owner of a Mauser automatic pistol for which he had obtained a license. Indu Bhushan deposed that Ram Prasad confused to talk frequently about this pistol and praise it very highly. Jagdish Chandra deposed that he frequently saw Prem Kishan Khanna is the evidence that he lent his license to Ram Prasad, in order to enable Ram Prasad to purchase the fifty cartridges of German make which were purchased on the 7th August 1924, from PN Biswas & Co., at Cawnpore. We have already noted how cartridge cases of this make were discovered on the scenes of the dacoities. There is further evidence that at the time of Prem Kishan Khanna's arrest, he was found to be in possession of pocket book in which there was the following entry in Urdu-

Alamnager 205 Kanhaiya Lal.

The case for the prosecution in respect of this entry is that it must have some reference to the train dacoity in as much as the dacoity was committed just outside. The two hundred and fifth mile from Mughalsarai. There is a post on the spot marked 205. The appellant was represented before us by Mr. J.M. Jackson, a senior counsel of the Lucknow Bar. He has argued that the incident of the purchase of the cartridge is of no significance. His case is that Ram Prasad and the appellant were great

friends and that in these circumstances there was nothing surprising in the appellant asking Ram Prasad to purchase cartridges for him to save him the trouble of going to the shop himself; that he would naturally lend him his license, in order to obtain the cartridges; and that his client was not in a position to know that Ram Prasad had signed his client's name on the register. He argued further that the discovery of the empty cases on the scenes of the dacoities in no way showed that his client had lent his Mauser automatic pistol to the dacoits and that the cartridges used in the dacoities were the cartridges purchased by Ram Prasad, as the cartridges were of a kind commonly procurable which might have been purchased any where.

The first point taken by the learned counlsel is that, in as much as Ram Prasad and his client were great frineds, Ram Prasad might have been ready to oblige his client. But his client had denied that Ram Prasad and he were great friends. When asked by the committing Magistrate what he had to say in respect of Ram Prasad he said:

I had no association with Ram Prasad;

and when asked how he had no association with Ram Prasad when he was present at the time that Ram Prasad was arrested, he said:

I took no interest in Ram Prasad. I had stopped at his house on my way to the silk factory of Pt. Iqbal Narain Bakhshi. I saw a crowd at the house of Ram Prasad and stopped there.

When the Magistrate asked him for an explanation as to the purchase of the cartridges he refused to answer the question. The appellant, when he was examined before the learned Special Sessions Judge, did not suggest that he was a friend of Ram Prasad; but when he was asked the following question:

Do you now wish to say anything about the purchase of Mauser Pistol Cartridges from Messrs. Biswas' shop on your license on 7th August, 1924?,

He gave the following answer:

I went to Cawnpore on that date and stopped at my house. In the bazar I met Ram Prasad accused and as it was necesary for me then to meet Mr. Mahabir Prasad, PWD and to go back to Shahjahanpur I asked Ram Prasad to buy the cartridges for me and bring to me at the station. I met him at the train by which I was to return and he gave them to me.

We do not consider that the leanred counsel has given a satisfactory explanation as to this incident. It would be unusual for a man in the appellant's position ordinarily to hand over a pistol license to anybody.

These licenses are granted very sparingly. The appellant was in a position, however, to obtain the license, owing to the fact that his father held a superior postion in the service of a railway company. A man like the appellant who had received such a license, should have been very careful to whom he handed it over. He was a Shahjahanpur man and on his own showing he knew who Ram Prasad was, though he was not intimate with him. His case is that he happened to be in Cawnpore, that he wished to buy cartridges, that he was in a great hurry and that he could not wait. This sounds to us an unlikely story. It would not have taken him a long time to have gone to the shop of Biswas and Co. He could have left the license, ordered the cartridges, and called back for them. He could have obtained the cartridges by post. Under the rules, if he had written to Biswas & Co., enclosing his license, the cartridges could have been sent to him by post. So the incident is difficult to understand in ordinary circumstances. But if Ram Prasad and he were members of the same revolutionary conspiracy the incident is not difficult to understand. He has given no satisfactory explanation for his conduct. Further, we do not agree with the learned counsel that the discovery of cartridge cases of this pattern on the scenes of the dacoities does not connect these particular cartridges with the revolutionary conspiracy.

The learned counsel has argued that these cartridges are very easily procurable. The evidence on the subject, so far as it goes, shows that the cartridges are not easily procurable. On their face they are of a special marking, manufactured only by one firm in Germany. Mr. Horton has deposed that he had the greatest difficulty in obtaining similar cartridges. In respect of the entry, in the pocket book the learned counsel has argued that in the first place the reference to Alamnagar is meaningless in reference to the train dacoity as the post No.205 is some miles from Alamnagar railway station and a little over a mile from Kakori railway station, and that the entry has been satisfactorily explaned by the evidence called on behalf of the appellant which is to the effect that "205 Alamnagar Kanhaiya Lal" refers to the address of a relation of Kanhaiya Lal who was at that time residing in a house in the Alamnagar Muhalla of Sitapur city which bore the census number 205. Inasmuch as the learned Special Sessions Judge has found the appellant not guilty of complicity in the train dacoity (a decision in which the Crown has acquiesced as it has not appealed against it) the force of the prosecution, which is based upon this entry is considerably weakened. The only construction that it would appear to us possible to place upon the entry that could tell in favour of the prosecution

would be that the note was a memorandum made to remind the writer that a certain "Kanhaiya Lal' (the name could of course be a fictitious name) was to be near mile No.205 in the neighbourhbood of Alamnagar. The dacoity was committed in the neighbourhood of telegraph post No.204/21-there are twenty four such posts to the mile but No.205 would be a sufficient indication. It is, however, very difficult to understand even if this view were to be accepted why such an entry should be made by a person other than one of the persons who participated in the dacoity. We agree with the learned Special Sessions Judge that the appellant has been unable to explain this entry away satisfactorily. But the fact remains that the entry upon the finding that he did not participate in the commission of the dacoity carries us nowhere, and we thus do not propose to consider this portion of the evidence against him. As he has been acquitted in the train dacoity and as we are not holding this entry against him the evidence which he called, which was in the main to explain away this entry and to prove an alibi, becomes immaterial.

The case against him, however, remains that the evidence of Indu Bhushan Mittra stands corroborated by the evidence of Jagdish Chandra and stands corrobroated in our opinion very strongly by the facts that he lent his license to Ram Prasad, that Ram Prasad purchased on this license fifty cartridges of a make difficult to procure in India, and that empty cartridge cases of the same pattern were discovered on the scenes of the dacoities. We are satisfied upon this evidence that the appellant was a member of the revolutionary conspiracy. We are not, however, satisfied upon this evidence that he was privy to the conspiracy to commit dacoities either with or without murder. The conspirators desired arms and ammunition for revolutionary purposes as well for the 'purpose of committing dacoities. There is nothing to show that the appellant was more than one of the less important members of the conspiracy. Therefore while considering that he has been rightly convicted on the charge under S. 121-A we would accept his appeal and acquit him on the charge under S. 120-B, I.P.C.

Raj Kumar Sinha

Raj Kumar Sinha is a Bengali youth who was about twenty at the time of the trial. His father lives in Cawnpore. He was pursuing his studies in Benares. The main evidence against Raj Kumar Sinha is in respect of the discovery of property in a room which he had taken on rent

at Benares. He took this room on rent and then left it, having locked the door. Prahlad Das proves having let him the room. When this room was broken open, there were found in it a Sherwood rifle, a Remington rifle and an entrenching tool handle. Banarasi Lal, in the presence of S.Ainuddin, picked out the Sherwood and the Remington rifles from among other rifles as two of the rifles which had been used in the cmmission of the Bichpuri dacoity. The entrenching tool handle found in the room is proved to fit the entrenching head which was left on the scene of the Dwarkapur dacoity. In addition to this evidence against him is evidence that at the time of his arrest he write in Bengali certain letters of which the police took possession.

We have already referred to these letters in a previous portion of our judgment. This is the evidence against him as to participation in revolutionary conspiracy. He has further been found guilty of participation in the train dacoity. Abdul Wadud picked him out of a crowd at jail identification proceedings as one of the persons who had participated in the dacoity. He repeated this identification before the Court, Kalua, one of the herdboys, picked him out of a crowd at the jail identification proceedings as one of the men he had seen in Amethia close to the Kakori station just before the dacoity. He repeated this identification in Court. Badlu, another herdboy, picked him out of a crowd at the jail identification proceedings as one of those men but was unable to repeat the identification in Court. The appellant was charged with participation in the Bichpuri dacoity, but has been acquitted on that charge. He called one witness to prove an alibi in respect of the Bichpuri dacoity, but as he has been acquitted on this charge we need not discuss the evidence of that witness. He desired to call at the very end of the proceedings Bijai Kumar Sinha in his defence.

The learned Special Sessions Judge rightly refused to permit this witness to be produced, as the appellant had already closed his defence and as all defences were closed at that period. He has been represented in this Court by Mr. H.N.Misra who has been unable to explain away the discovery of the rifles and the entrenching tool handle or the statements in the letters which he wrote at the time of his arrest. In respect of the train dacoity he points out that Mr. Horton and Pandit Jagat Narain did not press this charge against the appellant in the trial Court. It is correct that they did not press this charge against him, but we consider that there refraining from pressing this charge against him was based on a

misappprehension of the value of the evidence against him. As we have stated in an earlier part of this judgment the prosecution in this case has been unnecessarily scrupulous. We might almost call it chivalrous. There has ben a tenderness on the part of the prosecution to press points in favour of the accused persons.

While we greatly appreciate the spirit which prompted the desire to be as fair as possible, we consider that in this particular instance it was carried too far. The learned counsel has suggested that as the prosecution was not pressing the charge of complicity in the train dacoity against the appellant his client may have been lulled into a false sense of security and thus failed to call evidence to meet the charge. We cannot accept this plea as on the face of it the conduct of the appellant shows that he was not lulled into a false sense of security. As we have noted he was charged also with complicity in the Bichpuri dacoity. The prosecution did not also press the charge against him of complicity in the Bichpuri dacoity. Nevertheless he called a witness to prove his alibi in that case, thus showing that he was under no false impression as to the gravity of the charges against him. Upon the evidence the appellant is clearly proved to have been a member of the revolutionary party. He is further clearly proved upon the evidence to have participated in the commission of the train dacoity, and he has been rightly convicted by the learned Special Sessions Judge on the charges on which he has been convicted.

Ram Dulare Trivedi

The appellant is a young man, a resident of Cawnpore. Banarsi Lal and Indu Bhushan Mittra have given evidence against him which, if accepted proves absolutely that he was one of the conspirators. Gopi Mohan has also given evidence against him which, if accepted, proves clearly that he was one of the conspirators. Ex.P-46, a letter written by the appellant to Indu Bhushan Mittra's brother, and Ex. P-47, a postcard written by the appellant to Indu Bhushan Mittra and his brother which were reccovered from the house of Indu Bhushan Mittra at the time of his arrest corroborate Indu Bhushan Mittra's evidence sufficiently. The evidence both of Banarsi Lal and of Indu Bhushan Mittra as against Ram Dulare Trivedi is corroborated by the fact that they were able to identify him. Gopi Mohan's evidence against him is not corroborated to any great extent. The appellant is represented before us by Mr. H.N. Misra. He called one witness whose evidence is of no value. We consider that it is established sufficiently

against him that he was a member of the conspiracy. He was not altogether a minor member and we consider that it is established that he was privy to the conspiracy to commit dacoities. We, therefore, find that he was rightly convicted on the charges on which the learned Special Sessions Judge convicted him.

Ram Nath Pande

Ram Nath Pande is a youth who was in a school at Benares. He has been represented before us by Mr. H.N. Misra. It is proved very clearly that the incriminating document Ex. B-152, written in the handwriting of Rajendra Nath Lahiri was found in his possession. It is further proved that Indu Bhushan Mittra wrote to him Ex. P-43 giving information as to Ram Prasad's arrest. The evidence against this appellant establishes sufficiently that he was a member of the revolutionary conspiracy. He was the "post-office" of Rajendra Nath Lahiri. There is nothing to show that he was privy to the conspiracy for committing dacoities, and while upholding his conviction on the charge under S. 121-A we allow his appeal in respect of his conviction on the charge under S.120-B, IPC.

Parnawesh Kumar Chatterji

During the hearing of the appeals Parnawesh Kumar Chatterji submitted to this Court the following petition in his own handwriting, from which it will be seen that he not only admits the correctness of his convictions but that he has admitted complicity in the commission of a dacoity which had never been mentioned in the proceedings. This dacoity said to have been comitted in the Allahabad District, but there is no allegation in these proceedings that such a dacoity was committed or that the revolutionary party was connected with it. The petition is as follows:

In the year 1923 I was living in the boarding house of Kashi Vidya Pith Sigra, and was reading in the ninth class. Manmatha Nath Gupta was also reading in tenth class. One day he asked me my address and my ins and outs and said I have come to know your feelings and ideas that is why I asked your ins and outs. However, we will meet very evening in the Carmichael Library. I went to the library as I was told. There I met him and was given a book, life of Mazzini and Garibaldi. After reading this book I was given many other books Banglaya Biplavad, Kanhai Lal, Khudi Ram, Jotindra Nath, Bandi Dwara. When I finished these books he began

discussions about them. After a few days he said to me that there is still such kind of party, do you want to enter. I said yes. Because from the very boyhood I used to hear stories about revolutionaries, of their wonders and risks, of bombs and revolvers. When I accepted all he said to me then he said from this day you are the member of this party the branch of Dacca Anushoolan Samiti. Then I said how shall I be able to know that I belong to the party? He said you will have to work in recruiting department as I recruited you. After few days Manmatha Nath asked me if I want any teacher he can give, one. But he will take Rs.10. I consented and asked my mother too, she also gave permission. One day in the library I met Jogesh Chandra Chatterji and Manmatha Nath Gupta introduced him to me. Daily he used to come and teach me. After a month or two he vanished. I do not know where he went. Then after some days he himself came to my house and said I am going back to my home. I had been to Gaya. So I have to inform you. Then I gave Rs.10 to him and he went away.

After passing a month or two Manmatha Nath introduced me with Rajendra Nath Lahiri. He asked me if I am asked to go anywhere shall I go without asking question. I said yes. Then we came back and after a fortnight both Gupta and Lahiri came to me in the evening. Asked me to come soon with a towel and a dhoti. I did as they said, then I and Manmatha Nath, with a lad unknown to me, went to the railway station and had three ticketes for Allahabad. We reached Allahabad, there I came to know that we were going for dacoity. I was not at all surprised because I knew that occasionally revolutionaries do commit dacoities. And I was very anxious to see and hold a revolver, pistol, bombs etc. When we reached Allahabad we settled in a dharamshala. In the noon time Jogesh Chatterjiti with a lad (named Banwari Lal) came and had a talk with Manmatha and went away again both of them. At 2 o'clock we again went to the railway station and I and Banwari started to unknown place changing many stations, at last in the evening we got down in some unknown station, where many people were getting down from the train. Banwari began to follow them so did I, covering their faces and mine, they took me to a far distance from the railway station and reached near a house and some of them jumped in from the roof and opened the door, then we all entered the house. I was not at all in a sense at that time. Anyhow we came lately to our home. In the year 1924 I with all my family members came to Jabbulpur. From there I had connexion with Manmatha through letters. In the end of year 1925, I received a registered parcel containing revolutionary leaflets. I burned them off. When I was returning from Bengal in the way I took the rules and regulations of the H.R.A. from Manmatha Nath.

I have seen the error of my ways and I am extremely sorry for any part that I have taken in the revolutionary society and I would have made my confession long ago excepting that I was threatened with life by some of my colleagues.

(Sd.) Parnawesh Kumar Chatterji,
24th July, 1927.

We find apart from this petition that Parnawesh Kumar Chatterji has been rightly convicted on the charges on which the learned Special Sessions Judge has convicted him. The question of his sentence will be considered later.

Before we consider the question of sentence, we propose to state in detail the findings, at which we have arrived upon the evidence. We find, that in the year 1924, certain persons in Bengal, amongst whom were Sachindra Nath Sanyal and Jogesh Chandra Chatterji, entered into a conspiracy of a revolutionary nature. In furtherance of the aims of this conspiracy, Jogesh Chandra Chatterji came to the United Provinces to recruit and to organize the movement. One of the meetings at which the organization was discussed and developed was held at Shahjahanpur about July 1924. There may have been other meetings at other places in the United Provinces. This much is certain. After July 1924 the movement in the United Provinces took a concrete shape. The central organization remained in Bengal, whence the policy was directed and controlled. Considerable powers were delgated to a provincial organization, two important headquarters of which were in Shahjahanpur and Benares. A meeting of this provincial organization was held in some place in the United Provinces in October 1924. Jogesh Chandra Chatterji was arrested in Calcutta, with the procedings of this meeting in his possession. There may have been several other meetings of the provincial organization. The only other meeting which is proved to have taken place is the meeting at the residential quarters of Vishnu Saran Dublis in the Vaishya Orphanage in Meerut on the 13th and 14th September 1925. It is not proved that there were activities in the United Provinces after the arrests of the 26th September 1925.

The aims and methods of the conspirators are disclosed in a guarded manner in The Revolutionary, and are disclosed specifically in the rules of the Hindustan Republican Association. There is other evidence as to what these aims and methods were.

The ultimate aim is stated in the rules as follows:

The object of the association shall be to establish a federated republic of the United States of India by an organized and armed revolution.

(1) The recruitment of active members. The methods here were to be by the use of personal influence ("private conversations") upon individuals, and upon the masses by publication in the press, which was to include subsidized weekly news papers, and through a secret press, by speeches from public platforms, by recitation of religious poems, and by the show of magic lantern slides. Emissaries were to be sent to villages, to factories and to coal mines to enlist the sympathies of agriculturists and labourers on the side of the revolutionary movement and to form organizations amongst them. Members were to utilize and influence the Congress and other public bodies towards the advancement of their objects.

(2) In order to provide the movement with the necessary striking force, arms and ammunition were to be procured, and arms and ammunition were to be manufactured in India. Members were to be sent abroad to obtain training as soldiers or ammunition workers so as to be able to conduct military operations or direct ammunition factories at the time of open rebellion; other members were to enlist in His Majesty's forces in India. Every effort was to be made to arm all members. Co-operation was to be sought towards these objects from Indian revolutionaries outside India.

(3) In order to obtain the necessary funds to carry out the programme the organizers were to make every efforts to collect subscriptions from members and sympathiesers. But funds were also to be collected "occasionally by contributions exacted by force."

(4) The central council was to have absolute powers, and its principal function was.

To supervise, adjust and co-ordinate the activities in the different provinces of which it shall have full knowledge.

It was also to be

In direct charge of the work to be carried out in countries outside India.

The exact steps leading to the desired armed revolution are not revealed in these rules, but provision is made for one possible eventuality:

In extreme cases of repressions by agent or agents of a foreign Government it shall be the duty of the association to retaliate in whatever form it shall consider suitable.

The objects of the movement according to Indu Bhushan Mittra were:

To overthrow the British Government by an armed revolution and to establish an independent Indian Government in its place. The means were a revolt. For this revolt men and arms and ammunition were required. Men were to be obtained from the youths of India by societies and clubs as libraries, sewa samities, athletic clubs, boyscout associations. Money was to be obtained by subscriptions from members and by dacoities. With such money, libraries, etc. were to be formed, preaching was to be arranged and arms and ammunition were to be bought.

We have considered the question whether the object of the conspiracy was in itself so impracticable as to justify a conclusion that the aims of the conspirators can be taken to be little more than the comparatively harmless vapourings of misguided men, some of whom were mere youths, such vapourings being begotten of a mistaken but honest conviction that all was not well in India. But we are unable to regard the movement as thus innocuous. The fact that the activities of these conspirators were confined to a period between July 1924 and September 1925 was in itself sufficient to prevent the organization reaching an advanced stage of development, but we find sufficient indication that substantial progress was made in the period. Arms and ammuniation are proved to have been collected, bombs are proved to have been found in the process of manufacture, and four gang robberies were committed. In every one of these human life was taken wantonly. Had the movement been allowed to continue undetected for a longer pierod, the results might have been very serious. There are many stages short of an armed revolution which could have been reached by the conspirators, at each one of which the public safety could have been more accutely affected.

One of the bad features revelaed by evidence as to the methods of the conspirators is the manner of recruitment of youths and the conversion of the recruit into the recuiter. The following are illustrations:

We have it proved that Ram Prasad approached Indu Bhushan Mittra, accordingly to the latter's own words, in the following manner:

There is a playing field next to the Arya Samaj building of which I have spoken. I used to play hockey there. Ram Prasad was learning Bengali and he asked me the meaning of words. He was there at the Arya Samaj Chabutra. Ram Prasad can speak and understand Bengali, but cannot write save a very little. First he used to give me detective novels to read in Bengali. Later he also gave me books to read. These other books he first

gave to me of his own accord and then I asked for them. Such books were Kanhai Lal Bandijiwan (second volume). Bangala Biplobbad (Revolution in Bengal) in Bengali. In Hindi Bolshevik Ki Kartut and Rus ki dadi Katherine..... I can understand and speak Urdu and can write it a little. The effect caused by my reading those books was that the English were rulling India by a revolt; they should be driven out of India by force.

After that Indu Bhushan Mittra, who was then barely fourteen years of age, was able to progress further. He formed a plan of constituting a club of boys at which they should be taught manly exercises in order to make them more efficient revolutionaries. He began to take a keen interest in the movement and made himself useful by receiving letters for Ram Prasad; but as he was sixteen years of age, his activities came to an end.

Since about two years ago I have been a friend of Ram Prasad. My visiting him began when I was in the ninth class. I was then in bad health and Ram Prasad said I should do physical exercise and I should go to him and he would teach me. I had not gone to his house before that and it was this which began my going there. I went to his house and he showed me Ram Murti drill and I thought it hard. Then he told me to do press ups and rising exercises. I then did them at my own house.

Ram Prasad similarly approached the little boy Jagdish Chandra who was about thirteen. Jagdish Chandra says:

On this question of physical exercise we got into the way of conversing. Ram Prasad asked me if I read books that were not text-books and I said I often read books from the school library. He then told me he would give me a book which I should read. I took the book called "Swadhinta ka pujari." I read it and returned it. (The title means. "The worshipper of freedom.") When he gave me the book he had asked me to return it. When I returned it he asked me what I had read and what effect it had made on me. I told him that the impression I had received was that everyman should serve his country. The book was about the lives of Gandhi, Tilak, Gokhale and others.

Then Ram Prasad said I should open a club and get books and newspapers for it. He said such books should be got as incited one to serve one's country. He said he would give the books, and Indu Bhushan Mittra was to start such a club and I should help him. I knew Indu as he was my class fellow. He is the witness in this case.

.. .. ..

In the vacation I was away from Shahjahanpur in Moradabad, Bareily, etc. I returned at the begining of July 1925.

I met Ram Prasad and he again told me my health was bad and I should do physical exercises. The same day he gave me a book 'The Little Grand Mother of the Russian Revolution' in English. I read it and it took me one or two months to finish it.

Catherine was a woman who preached in the village against the rule of the Tsar and wanted to start republican Government. She was sent to jail. When I returned the book he said there was need in India too to have a revolution and put up a republican Government ..... I said that revolution in India was impossible as we had no arms nor army. He said that he and his society collected arms and all arrangement would be made. I asked how they got arms and he said they were getting them by forcible means, that is to say, by taking them by force from those that had them.

I asked him about the society and he said he would not tell me as I was still a boy. He told me not to tell this to anyone, otherwise it would not be good for me.

Ram Prasad was arrested before he succeeded in enlisting Jagdish Chandra.

Indu Bhushan Mittra approached Jagdish Chandra also.

This is the manner in which Govind Charan Kar ("Chaudhari") approached Jadu Nath Sen, another school boy. Jadu Nath Sen says:

On my arrival from the holidays the next day I began to salute Chaudhri and after two or three days we talked.

The talk started as he came into my room and asked me who I was and whence I came. I said I studied at the Church Mission School and I told him what my father was. I asked him what he did and he said he was an agent. He said he was an agent of razors, knives, and underwear from Delhi. This he said later. The first day he said only that he was an agent.

He asked me if I read novels on the first day. I said I had no time for that. He told me I should find time and read. Then he also told me that I should learn to deliver lectures.

I said there was no need for me to lecture as I was a student. He told me then that I should learn at once. He told me I should go to the Ganga Prasad Library to read papers and novels. I said I had not time and I would go when I had time. This was all the talk the first day.

On the second or third day we talked again. This took place in my room. Then he began to lecture to me about our country. He told me how freedom was to be acquired. For several days he kept on lecturing me on this subject. During the time of these lectures he gave me a book, called

'Desh Udhar' (Salvation of our country) in Hindi with Sanskrit in it. Sewn on to this was another book "Ghulami Ka Nasha" (The Drunkenness of Slaves) Chaudhari made me read two pages of "Desh Udhar." Then he told me to keep the book and read it and take help from him when necessary, that is to question him about it. Then he also lectured me about Swadeshi and foreign clothes. He told me I should wear country clothes which were cheap and not foreign clothes which were expensive and I should support home manufactures; I said I would wear what my father gave me. He also added that such a lot of grain was exported and the Indians were dying of hunger.

We find Bhupendra Nath Sanyal (who has not appealed) at the age of about nineteen perverting his fellow-students in Allahabad.

But every incident connected with this conspiracy pales into comparative insignificance in the light of the evidence as to the four gang robberies with murder. These crimes came under the heading of "Occasional contributions exacted by force."

At Bamrauli the victim was a Brahman whose only importance in the eyes of the conspirators consisted in his possession of money, which they desired. The robbers indulged in gun fire. One man Mohan was killed. Seven were wounded. The circumstances of the death of Mohan were these:

Baldeo Prasad deposes:

Mohan Lal died in my village. He was killed that night. He was a wreslter and cultivator. He was one of the villagers who came with me. Mohan Lal shouted to the dcacoits thast if they were brave they should fight with him with bare arms or else give him too a weapon to oppose them. The dacoits on the roof told him to stand up and then they turned on him some thing which looked like a candle and gave a great light and they shot him in the side. He fell on the sport.

In the Bichpuri dacoity the victims were selected as the result of a change of plan. The original intention was to rob a house in a different village, but the conspirators finding that that venture would be attended with some danger turned, under the advice of local bad characters, to the house of Toti and Bihari, who claimed their attention solely because they were said to have money and to be less protected. Here torture preceded murder. Toti says:

Then Bihari was seized by the dacoits and brought where I was. Then the dacoits made me stand up and took me into the room and asked me to

show them where the money was. I said I had none. Then the dacoits began to beat me. They also put a knife on the throat of my boy and said: 'Cut his throat'. They said that without it I would not disclose my money. They also pressed my neck and put a knife to my eyes and said they would gouge them out if I did not tell. They also lit a cloth with oil between my legs. I was then in the verandah of my room. When I put out my hand to ward off the knife from my eyes I got a slight cut near the eye. My child did not have his neck cut as it was forbidden by one of the dacoits on the roof of Sobhi. I cannot say which of the two men on the roof prevented it.

Two men were shot. One Sham Lal died. This was the manner of his death. Sobha says:

I saw Sham Lal come out of his house and he asked me why I was standing there. I said that they had guns and we would be killed. Sham Lal said that they were only fire-crackers, not guns. Sham Lal advanced and abused one man and said he had recognized him. The man said: 'If you have recognized me, take this.' Sham Lal turned and then he got a bullet in the buttocks and fell where he was struck. In fear I ran to the fields.

Sheoratan Bania of Dwarkapur similarly owed the attack upon his house to the fact that he had money which his assailants wanted. He was bitten in the arm and struck three times with a hatchet. One Dwarkapur villager was killed. Four were wounded.

In the train robbery the attackers maintained a fusillade of shots on each side of the train. The unfortunate Ahmad Ali met his death in the following manner. His friend Mirza Ahmad Shah says:

Ahmad Ali got down and said he would see after his wife who was sitting in a different compartment. I told him not to go but he said he would come back at once. Our compartment was three to five coaches from the engine. This compartment was in front of the first and second class one. Ahmad Ali did not come back into the compartment before the train started.

He was shot dead apparently as soon as he got out.

Thus in a little over a year some of the accompaniments of this conspiracy were the deaths of four men killed by fire arms, the wounding of twelve others with fire arms and torture of a brutal nature.

Some attempt has been made to extenuate these atrocities by urging that the intention of the conspirators was never to murder, and that their desire was only to keep outsiders from interfering with their removal of

the property and to save themselves from detection. It was further urged, that their activities might have been worse, and we have been referred to statements in the evidence to show that in the Bichpuri dacoity the action of the dacoits has some trace of humanity. These are the statements: Toti has already stated that when one dacoit threatened to cut his child's throat another dacoit forbade him to do so, Banarsi Lal's deposition is as follows:

When I went in, I found a man and a woman on a cot in a thatch in the yard and I threatened him. He did not disclose anything and I went elsewhere. There I saw a bad character pulling a woman by the hair and 'Quicksilver' held a kukri against the throat of a child, and said to Ram Prasad that he might be allowed to cut the throat of the child else the woman would not speak. Ram Prasad was on the roof there. Ram Prasad told him not to do so as the woman would speak anyhow. Ganga Ram and Nawab were taking property from the rooms. These things struck me unfavourably and I went in another direction. There was a room with fodder inside and a woman was hiding in the fodder. She had a child in her lap and there was another bigger child there. A bad character was seizing the woman by the breasts. I told the bad character, being very angry, that I would tell the captain (that is, Ram Prasad) what he was doing and the bad character went into another room and I went outside. By outside, I mean, outside the house.

When I again went into the house I saw some bad characters feasting on molasses. I showed all these rooms to the Deputy Magistrate. Villagers outside collected round the house and began shouting and the bad characters by the order of Ram Prasad fired and he and Ashfaquallah fired from the roof. Ram Prasad said: 'Havaldar Warn the people three times and if they do not obey, shoot them down.

Ram Prasad from the roof shouted that he who wanted to die should advance, otherwise he should go back. Shots were fired all this time from the roof and from below. No pistols or revolvers were fired as Ram Prasad had told those who had them not to use them unless personally attacked.

'Quicksilver' is said to be the nickname of a conspirator against whom a warrant has been issued but who has not been apprehended.

It was further urged that these robberies were committed not for the personal gain of the robbers, but solely in order to obtain funds for the furtherance of the cause which they had at heart. These arguments should not in our opinion affect the question of sentence. It appears to us that the distinction in gravity between the act of a man who shoots because he desires to kill another, and a man who shoots to kill, because he desires

that another man should not interfere with his committing a robbery, is too fine to form the basis for a difference in sentence, and we can find nothing to make the robbery of inoffensive people, such robbery being accompanied, by murder, appreciably excaused by the fact that the perpetrators desired funds for the purpose of conducting revolutionary propaganda. It is established clearly that at every dacoity the perpetrators went armed with lethal weapons with the intention of using these weapons, if there was any interference with the taking of the property of others, that as soon as they apprehended such interference or became anxious as to the chance of detection, they used their weapons with callous deliberation and with complete indifference to the loss of life caused.

Our conclusion is that the conspiracy was of a very serious nature, having as two of its proved effects-the deterioration and ruin of young and impressionable boys, and the ill-treatment, robbery and murder of countrymen of the conspirators against whom individually the conspirators had no possible ill-feeling or grievance. The men who are proved to have been in the inner circle who originated and instigated the commission of robberies with murder should recieve exemplary punishment. Such men, when proved, in addition to have taken part in the commission of offences attended with the loss of human life, deserve more stringent treatment. Men who were not in the inner circle, but nevertheless took a leading part in the taking of life should receive as stringent treatment as any. Those who are proved to have taken minor part in the movement may in some instances be made the objects of clemency.

We have been asked to consider the youth of the appellants. We shall take their youth into account in the instances of those who are youths. But it is to be noted that the worst offenders are full grown men. At the time of the commencement of the trial, Ram Prasad was 28 years of age; Rajendra Nath Lahiri 24; Raushan Singh 36; Jogesh Chandra Chatterji 30; Suresh Chandra Bhattacharji 28; Vishnu Saran Dublis 26; Govind Charan Kar 30; Makundi Lal 33; Sachindra Nath Sanyal 32.

We have been asked to consider the penitence of certain individual appellants. We shall, when deciding on the sentences take into account the question of penitence, where we believe that the appellants really are penitent, but we consider that in almost all instances there is no penitence, and the allegation has been added formally to the arguments.

Finally, it has been urged before us that at the worst the appellants are misguided men of good material who have taken a wrong course

under a mistaken conception of their duty, and who will prove themselves worthy recipients of a wise elemency by a steadfast intention to lead a new life. There is, however, a circumstance in the case itself, which shows that there is danger in accepting this view. We have referred already to Sachindra Nath Sanyal, one of the inner circle and main promoters of the conspiracy. He has been sentenced to transportation for life and has not appealed against his conviction and sentence. He cannot appeal now. In view of the fact that he has not appealed he is not prejudiced by our stating a fact which appears on the record of the case. In 1916, Sachindra Nath Sanyal was convicted by a Special Tribunal at Benares of complicity in a revolutionary conspiracy and sentenced to transportation for life. He subsequently received an unconditional pardon as a matter of celemency. After his release in 1920 he wrote on his own admission the book called "Bhandijiwan" or "The Prisoner's Life" which is on the record. It is a eulogy of his previous activities containing a definite incitement to others to commit similar crimes. He subsequently entered into this conspiracy as one of the main promoters.

We now come to the question of sentences.

Ram Prasad Bismil

We find this man upon the evidence, to have been one of the most dangerous conspirators. He was the head of the provincial organization in the United Provinces. He and Rajendra Nath Lahiri in our opinion formed the innermost provincial circle of the conspiracy. It was he, we consider, who organized the dacoities and issued the directions as to when death was to be caused and when death was not to be caused. We agree with the learned Special Sessions Judge that in the Bichpuri dacoity he was the captain and ringleader, that he directed when the firing was to take place and that he himself was using fire-arms. He was again one of the main directors and controllers in the train dacoity. He is a full-grown man of mature age, complete understanding, and distinct mental ability. He has utilized a not indifferent intellect towards the worst purposes. Now, when the proceedings have come to an end, he has made an almost abject appeal for lenient treatment. He has pleaded that if given a remission of all sentences he will be a good, loyal and useful citizen. He has withdrawn all allegations against persons in authority, and has to a large extent thrown his defence to the winds, although he has been careful to note at the same time that he does not withdraw a word of it. We do not believe in his

repentance or in his sincerity. We consider that he is a man who, if he were let loose, would commit exactly the same crimes on his release. He has made in the course of his arguments a strong appeal for lenient treatment on the ground that it is not established that a shot from his weapon killed anyone, but we are not disposed to consider this fact as of any consequence. He fired himself; he controlled the fire of others. It can only be taken that when he fired he understood the consequences of his act and it can only be taken that when he fired he aimed. The accuracy of his aim is unimportant. The gravity of this man's offences does not consist so much in the fact that he was engaged in a conspiracy to subvert the British Government. That is bad enough; but that offence is of minor importance in comparision with the other offences that he is proved to have committed. He has shown himself to be a deliberate, callous murderer. He was ready to murder harmless fellow-citizens against whom he had no possible grudge for the sake of his own objects. The Special Sessions Judge has very rightly sentenced him to death. We have already upheld his conviction on all charges and we dismiss his appeal, confirm the sentence of death passed against him in respect of the dacoity with murder committed at Bichpuri, and the dacoity with murder committed on the train. The result is that he will be hanged by the neck till he is dead. His remaining sentences will not be carried out if the death sentence is carried into effect.

Rajendra Nath Lahiri

This man stands second in depravity to Ram Prasad in this case. He and Ram Prasad formed the inner circle of the conspiracy. He was responsible for the policy of dacoity and the policy of murder. He is not as old as Ram Prasad but he has arrived at full intellectual maturity being, as he is, a man now of some twenty-five years of age. He has shown the greatest activities in all the objects of the conspiracy. He took part himself in the train dacoity where he used fire arms. In the train dacoity he was one of the ringleaders. We do not know which shot it was that deprived Ahmad Ali of his life, but every man who fired a shot on that occasion is equally deserving of the death penalty. We consider that the Special Sessions Judge took a correct view in sentancing this man to death. We dismiss his appeal, confirm the death sentence passed against him and direct that he be hanged by the neck till he is dead. The remaining sentences will not be carried out if the death sentence is carried into effect.

Raushan Singh

This man was not one of the inner circle. He is over thirty-six years of age. He is a villager rather than an intellectual, but it is clear that in the Bamrauli dacoity he was one of the ringleaders and he was one of the men who took part in the continuous firing which resulted in the death of one man and the wounding of seven others. In our opinion it would not be undeserved if every man who took part in the Bamrauli dacoity, in which there was a glut of firing, had received the death sentence. It has not, however, been inflicted in every instance. In this case Raushan Singh is the only man who has been convicted of complicity in the Bamrauli dacoity. He has been rightly sentenced to death. We dismiss his appeal, confirm the sentence of death against him and direct that he be hanged by the neck till he is dead. The other sentence passed against him will not be carried out if the death sentence is carried into effect.

Jogesh Chandra Chatterji

We are satisfied upon the evidence that Jogesh Chandra Chatterji was one of the persons who originally conceived the idea of the conspiracy and that he was a member of what the rules call "The Central Council" which operated in Bengal. In these circumstances he must be held responsible for all the very serious offences committed by the conspirators. We consider that the Special Sessions Judge has passed on him too lenient a sentence. We enhance the sentences passed upon him under each section to sentences of transportation for life. They will run concurently. His appeal is dismissed.

Suresh Chandra Bhattacharji

This appellant is a full-grown man who had a responsible position upon an Indian newspaper. We are satisfied that he was one of the inner circle in the province and in these circumstances we consider that the sentences passed upon him by the Special Sessions Judge are inadequate. We enhance the sentences passed upon him under each section to sentences of ten years' rigorous imprisonment. They will run concurrently. His appeal is dismissed.

Vishnu Saran Dublis

We are satisfied that this man also was one of the inner provincial

circle and his case appears to us to stand on the same footing as that of Suresh Chandra Bhattacharji. We enhance his sentences similarly to sentences of ten years' rigorous imprisonment on each charge. These sentences will run concurrently. His appeal is dismissed.

Manmatha Nath Gupta

Manmatha Nath Gupta is a youth, but he is a youth of singular precocity in crime. Not only is it established that he was one of the party to whom important secretarial work was committed, but he is proved to have taken part in no less than two dacoities. The Government has applied for the enhancement of his sentences. We consider that if he had been an older man he should have received very much heavier sentences, but in view of the fact that he is only a youth we do not propose to enhance his sentneces. We do not propose, however, to reduce them. His appeal stands dismissed.

Govind Charan Kar

We look upon this man as a particularly dangerous member of the conspiracy. He had come from Bengal to work the conspiracy up. Not only had he done so, but he took part himself in the train dacoity. He is a man of about thirty and we consider that the Special Sessions Judge has passed too lenient a sentence upon him. We enhance the sentence upon him to sentences of transportation for life under each charge. These sentences will run concurrently. His appeal is dismissed.

Makundi Lal

Makundi Lal is proved to be not an important conspirator, but he is proved to have been a very dangerous dacoit. He took a prominent part in the commission of the train dacoity. The Special Sessions Judge has remarked about him that he is now at least 35 and so the chances are that he will not in future join in other dacoities, and that as regards cospiracy he does not think that he has brains to do much himself. We do not consider, however, that the fact that the man is 35 years of age is a sufficient reason for passing a light sentence upon him when he has proved to have dacoity accompanied with murder. We enhance the sentences passed upon him to sentences of transportation for life on each charge. These sentences will run concurrently. His apeal is dismissed.

Ram Kishen Khattri

He has been convicted of conspiracy and has also been convicted of participation in the Bichpuri dacoity. He appears to us a dangerous man. He is not very old, but he is not very young. He was at the commencement of the trial 22 years of age. The Crown has not applied for enhancement of his senteces. In the circumstances we could not enhance his sentences, but we see no reason to reduce them. His appeal is dismissed.

Prem Kishan Khanna

The appeallant is a man who was 26 years of age at the commencement of the trial. He had been working for some years as a contractor. He is a man of good family and of good position. There is nothing to extenuate his joining a conspiracy of this nature and we see no reason to reduce his sentence on the charge under S.121A. We have already accepted his appeal on the charge under S.120-B. This disposes of his appeal.

Raj Kumar Sinha

His case is not as bad as the case of Manmatha Nath Gupta. He is some years older than Manmatha Nath Gupta, but was not as prominent a conspirator as Manmatha Nath Gupta, but he is proved to have taken part in the train dacoity. The special sessions judge has sentenced him to sentences lower than those passed upon Manmatha Nath Gupta. We consider the sentences passed upon him neither too high nor too low. We accordingly refuse to reduce these sentences and dismiss his appeal.

Ram Dulare Trivedi

Ram Dulare Trivedi was one of the original participants in the conspiracy, but since then has taken a very minor part; but he was one of the original conspirators and we see no reason to reduce his sentences. His appeal is dismissed.

Ram Nath Pande

We have already allowed Ram Nath Pande's appeal in respect of his conviction under S.120-B. In respect of his appeal on the conviction under S.121-A, we find that he took a minor part in the conspiracy and we reduce his sentence from five years rigorous imprisonment to three years' rigorous imprisonment. His appeal is otherwise dismissed.

Parnawesh Kumar Chatterji

As has already been stated this youth has withdrawn all his protestations of innocence and we have only to consider his appeal on the question of sentence. While we are inclined to believe that he is sorry for what he has done, we can not lose sight of the fact that he had important duties in the conspiracy and was clearly one of the men entrusted with secretarial work. We feel, however, that we should do something for him and we reduce the sentences passed upon him under each section to sentences of four years' regorous imprisonment which will run concurrently. His appeal is otherwise dismised.

D.D. Appeals dismissed.

Footnotes and References

1. [1904J 27 All. 33=(1904) A. W.N. 157.]
2. [1916] 2K. B.658=86 L.J.K.B.=28=115 L. T. 453=25 Cox. G. G. 524=80' J.P 446=60 S. J. 696, [A]
3. [1787J 1 Leach 464
4. Dears 555.
5. [1894] 2 Q. B. 415=63 L. J. M. C. 198=10 R. 400=42 W. R. 637=18 Cox. C. C. 15=71L.T.403
6. 3 Cox. C.C. 526
7. [1832] 5C. & P.326.
8. [1934] 7C & P. 272
9. A. I. R. 1921 All. 215.
10. A.I.R. 1925 All, 223=47 All. 39 (F.B)

Annexure-I

No	Name	Charge under Section 121-A	Charge under Section 120-B	Bamrauli dacoity, Section 396	Bichpuri dacoity, Section 396	Train dacoity, Section 396
1.	Ram Prasad Bismil...	Convicted	Convicted	...	Convicted	Convicted
2.	Rajendra Nath Lahiri...	do	do	...	...	Convicted
3.	Raushan Singh...	do	do			
4.	Jogesh Chandra Chatterji	do	do			
5.	Suresh Chandra Bhattacharji					
6.	Vishnu Saran Dublis	do	do			
7.	Manmatha Nath Gupta	do	do		Convicted	
8.	Govind Charau Kar.	do	do		Convicted	
9.	Makundi Lal	do	do		Convicted	
10.	Ram Kishan Khattri	do	do			Convicted
11.	Prem Kishan Khanna	do	do			
12.	Raj Kumar Sinha	do	do			
13.	Ram Dulare Trivedi	do	do			
14.	Ram Nath Pande	do	do			
15.	Parnawesh Kumar	do	do			
16.	Sachindra Nath Sanyal	do	do			
17.	Bhupendra Nath	do	do			
18.	Banwari Lal	do	do			Convicted

Annexure-II

Details of the Persons Arrested in Kakori Case

Session Trial No1 of 1926. Court of Mr. Hamilton, Special Judge held on December 6th April 1927

Shahjahanpur

1. Ram Prasad Bismil — Hanged
2. Banarsi Lal Kokash — Turned approver& was pardoned
3. Lal Hargovind — Let off by Sessions
4. Prem Kishan Khanna — 5 years R.I
5. Indubhushan Mitra — Turned approver and was pardoned
6. Roshan Singh — Hanged
7. Ramdutt Shukla — Let off before trial
8. Ashafaqullaah — Hanged

Kanpur

9. Birbhadra Tewari — Let off by lower court.
10. Ramdulare Trivedi — 5years R.I
11. Gopi Mohan — Let off
12. Raj Kumar Sinha — 10years R.I
13. Suresh Ch.Bhattacharya — 10 years R.I

Banaras

14. Sachindra N. Bakshi — Transportations for life
15. Seth Damodar Swarup — Bailed off
16. D.D. Bhattacharya — Let off before trial
17. Manmatha Nath Gupta — 14 Years R.I
18. Ramnath Pandey — 5 years R.I
19. Indravikram Singh — Let off before trial
44. Chandrasekar Sharma Azad — could not be arrested

Allahabad

20. Shitla Sahai — Let off before trial
21. Bhupendra N.Sanyal — 5years R.I
22. Sachindra N. Sanyal — Transportations for life

Agra

23. Chandradhar Jauhari	Let off before trial
24. Chandrabhal Jauhari	Let off before trial
25. Shivcharan Lal	Informer (not even arrested)

Etah

26. Babu Ram Verma	Let off before trial

Etawah

27. Jyoti Shankar Dixit	Let off from lower Court
35. Mukandilal	Transportation for life
36. Ram Ratan Shukla	Let off before trial

Lucknow

28. Harnam Sundarlal	Let off before trial
29. Sachindra N.Biswas	Let off by the sessions
30. Govind Charan Kar	Transportation for life

Lahore

31.Mohanlal Gautam	Let off before trial

Bengal

32. Sarat Chandra Guha	Let off before trial
33. Jogesh Chander Chatterji	Transportation for life
34. Rajendernath Lahiri	Hanged

Meerut

37. Vishnu Sharan Dublish	10 years R.I
38. Madanlal	Let off before trial
39. Dhairon Singh	Let off before trial

Berhampur

40.Kalidas Basu	Let off before trial

Chanda

41.Ram Krishna Khatri	10 years R.I

Jubbalpore

42. Pranabesh Chatterjee	4 years R.I

Rai-Bareli

43. Banwarilal	4 years R.I

Annexure-III

Party names of some of the Revolutionaries

In a secret organization the names of the important members are not used, but each member is given a secret name. These were the secret names of the members.

1. Ram Parsad	Ananda Parkash. Rudra Ram, Paramahans, Master Mahashay and Mohant.
2. Rajendra Nath Lahiri	Nitai, Nitaichand , Nitai Mama, Charu, Jugalkishore, Dixit Mathura, Muthra Parsad , Jawaharlal Bajpai, K.P Srivastava.
3. R.K Khatri	Narendra, Ganga Ram, Govind Prakash
4. J.C Chatterji	Roy, Profulla Chandra Roy, Roy Mahashay
5. Mukandilal	Maharaj
6. Banwarilal	Tara Singh, Ramanda Singh
7. Ashfaqualla	Kunwarji, Mantana, Wari, Krishan
8. Banarsi	Bawa
9. M.N Gupta	Nawab, Nawab Sahib
10. Chandrasekhar Ajad	Quick Silver
11. S. N. Bakshi	Badri, Kanaiyalal, Bagchi
12. Seth	Damodar Swarup : Lalaji
13. G. C. Kar:	Chaudhury
14. Indubhusan	Goward